Article - Public Utilities

§1–101.

(a) In this division the following words have the meanings indicated.

(b) (1) "Aggregator" means an entity or an individual that acts on behalf of a customer to purchase electricity or gas.

(2) "Aggregator" does not include:

(i) an entity or individual that purchases electricity or gas only for its own use or for the use of its subsidiaries or affiliates;

(ii) a municipal electric utility or a municipal gas utility serving only in its distribution territory; or

(iii) a combination of governmental units that purchases electricity or gas for use by the governmental units.

(c) "Broker" means an entity or individual that acts as an agent or intermediary in the sale and purchase of electricity or gas but does not take title to electricity or gas.

(d) "Commission" means the Public Service Commission.

(e) (1) "Common carrier" means a person, public authority, or federal, State, district, or municipal transportation unit that is engaged in the public transportation of persons for hire, by land, water, air, or any combination of them.

(2) "Common carrier" includes:

(i) an airline company;

(ii) a car company, motor vehicle company, automobile company, or motor bus company;

(iii) a power boat company, vessel–boat company, steamboat company, or ferry company;

(iv) a railroad company, street railroad company, or sleeping car company;

(v) a taxicab company;

(vi) a toll bridge company;

(vii) a transit company; and

(viii) a transportation network company.

(3) "Common carrier" does not include:

(i) a county revenue authority;

(ii) a toll bridge or other facility owned and operated by a county revenue authority;

(iii) a vanpool or launch service; or

(iv) a for–hire water carrier, as defined in § 8–744 of the Natural Resources Article.

(f) "Community choice aggregator" means a county that serves as an electric aggregator for the purpose of negotiating the purchase of electric generation services from an electricity supplier licensed by the Commission or from an electric generating or storage facility, or providing electricity from an electric generating facility owned by the aggregator for residential electric customers, which include master–metered multiple occupancy residences and small commercial electric customers, as defined in § 7–510.3 of this article, that:

(1) are located within the county, including customers located within municipal corporations located in the county;

(2) have not:

(i) selected an electricity supplier other than the standard offer service supplier; or

(ii) refused to participate in the aggregation activities of the county; and

(3) are not located in the service territory of:

(i) a municipal electric utility; or

(ii) an electric cooperative.

(g) "Company", as a designation for a type of enterprise, includes a person that owns a company individually or as an agent, trustee, or receiver of a company.

(h) "County" means a county of the State or Baltimore City.

(h–1) (1) "Critical infrastructure" means assets, systems, and networks, whether physical or virtual, considered by the U.S. Department of Homeland Security to be so vital to the United States that their incapacitation or destruction would have a debilitating effect on one or more of the following:

(i) security;

(ii) national economic security;

(iii) national public health; or

(iv) safety.

(2) "Critical infrastructure" includes:

(i) a hospital or health care facility; and

(ii) a data center as defined in § 11–239 of the Tax – General Article.

(h–2) "Cybersecurity" has the meaning stated in § 3.5–301 of the State Finance and Procurement Article.

(i) (1) "Electric company" means a person who physically transmits or distributes electricity in the State to a retail electric customer.

(2) "Electric company" does not include:

(i) the following persons who supply electricity and electricity supply services solely to occupants of a building for use by the occupants:

1. an owner/operator who holds ownership in and manages the internal distribution system serving the building; or

2. a lessee/operator who holds a leasehold interest in and manages the internal distribution system serving the building;

(ii) any person who generates on–site generated electricity;

(iii) a person who transmits or distributes electricity within a site owned by the person or the person's affiliate that is incidental to a primarily landlord–tenant relationship; or

(iv) a person who provides electricity to a commercial or industrial customer in accordance with § 7–506.1 of this article.

(j) "Electric plant" means the material, equipment, and property owned by an electric company and used or to be used for or in connection with electric service.

(k) "Electric storage facility" means a facility used to store:

(1) electrical energy; or

(2) mechanical, chemical, or thermal energy that was previously electrical energy:

(i) for use as electrical energy at a later time; or

(ii) in a process that offsets electricity use during peak demand.

(l) (1) "Electricity supplier" means a person:

(i) who sells:

1. electricity;

2. electricity supply services;

3. competitive billing services; or

4. competitive metering services; or

(ii) who purchases, brokers, arranges, or markets electricity or electricity supply services for sale to a retail electric customer.

(2) "Electricity supplier" includes an electric company, an aggregator, a broker, a marketer of electricity, and a person who provides electricity to a commercial or industrial customer in accordance with § 7–506.1 of this article.

(3) "Electricity supplier" does not include:

(i) the following persons who supply electricity and electricity supply services solely to occupants of a building for use by the occupants:

1. an owner/operator who holds ownership in and manages the internal distribution system serving the building; or

2. a lessee/operator who holds a leasehold interest in and manages the internal distribution system serving the building;

(ii) a person who generates on–site generated electricity; or

(iii) a person that owns or operates equipment used for charging electric vehicles, including a person that owns or operates:

1. an electric vehicle charging station;

2. electric vehicle supply equipment; or

3. an electric vehicle charging station service company or provider.

(l–1) (1) "Energy salesperson" means an individual who is licensed by the Commission to sell:

(i) electricity or electricity supply services to residential retail electric customers on behalf of an electricity supplier as an employee or agent of the electricity supplier; or

(ii) gas or gas supply services to residential retail gas customers on behalf of a gas supplier as an employee or agent of the gas supplier.

(2) "Energy salesperson" does not include:

(i) the Department of General Services when the Department of General Services sells energy under § 7–704.4 of this article;

(ii) the Washington Suburban Sanitary Commission when the Washington Suburban Sanitary Commission sells energy under Division II of this article;

(iii) a community choice aggregator under § 7–510.3 of this article; or

(iv) an employee or contractor of an electric company when the employee or contractor is performing duties specific to standard offer service.

(l–2) "Energy vendor" means a person that has a contract or subcontract to provide energy sales services to an electricity supplier or a gas supplier that provides electricity supply services or gas supply services, respectively, to a residential customer.

(m) (1) "Gas company" means a public service company that:

(i) is authorized to install or maintain facilities in, over, or under streets for furnishing or distributing gas; or

(ii) owns a gas plant and:

1. transmits, sells, supplies, or distributes artificial or natural gas; or

2. manufactures gas for distribution or sale.

(2) "Gas company" includes a municipal corporation that is in the business of supplying gas for other than municipal purposes.

(n) "Gas master meter operator" means a person that owns or operates a pipeline system, other than piping within a building:

(1) that distributes gas within, but not limited to, a definable area, such as a mobile home park, housing project, or apartment complex;

(2) for which the person purchases metered, artificial, or natural gas from an outside source for resale through the pipeline system; and

(3) that supplies the ultimate consumer, who purchases the gas directly through a meter or by other means, such as by rent.

(o) "Gas plant" means the material, equipment, and property owned by a gas company and used or to be used for or in connection with gas service.

(p) (1) "Gas supplier" means a person who:

(i) sells:

1. gas;

2. gas supply services; or

3. competitive billing services for gas supply services; or

(ii) purchases, brokers, arranges, or markets gas or gas supply services for sale to a retail gas customer.

(2) "Gas supplier" includes an aggregator, a broker, and a marketer of gas.

(3) "Gas supplier" does not include:

(i) a gas company to the extent that the gas company provides gas sales or delivery service at rates regulated by the Commission;

(ii) the following persons who supply gas solely to occupants of a building for use by the occupants:

1. an owner/operator who holds ownership in and manages the internal distribution system serving the building; and

2. a lessee/operator who holds a leasehold interest in and manages the internal distribution system serving the building; or

(iii) a person who transmits or distributes gas within a site owned by the person or the person's affiliate that is incidental to a primarily landlord–tenant relationship.

(p–1) "Investor–owned electric company" means an electric company that is not a municipal electric utility or an electric cooperative.

(q) "Launch service" means a power boat company that transports passengers or freight between the shore and vessels on a body of water in the State.

(r) "Liquid–immersed distribution transformer" means a transformer that:

(1) has an input voltage of 34,500 volts or less;

(2) has an output voltage of 600 volts or less;

(3) uses oil or other liquid as a coolant; and

(4) is rated for operation at a frequency of 60 hertz.

(s) "Marketer" means a person who purchases and takes title to electricity or gas as an intermediary for sale to a customer.

(t) "Municipal electric utility" means a municipal corporation, or a division of a municipal corporation, that is in the business of transmitting or distributing electricity for purposes other than end use by the municipal corporation.

(u) "On–site generated electricity" means electricity that:

(1) is not transmitted or distributed over an electric company's transmission or distribution system; or

(2) is generated at a facility owned or operated by an electric customer or operated by a designee of the owner who, with the other tenants of the facility, consumes at least 80% of the power generated by the facility each year.

(v) "Own" includes own, operate, lease to or from, manage, or control.

(w) "Person" means an individual, receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind and any partnership, firm, association, corporation, or other entity.

(w–1) "PJM Interconnection", "PJM Interconnection, LLC", or "PJM" means PJM Interconnection, LLC or any successor organization that services the PJM region.

(w–2) "PJM region" means the control area administered by PJM Interconnection, as the area may change from time to time.

(x) "Plant" includes all material, equipment, and property owned by a public service company and used or to be used for or in connection with a public utility service.

(y) "Proceeding" includes an action, complaint, hearing, investigation, trial, appeal, order, or similar matter pending before, made, or conducted by an official body.

(z) (1) "Public service company" means a common carrier company, electric company, gas company, sewage disposal company, telegraph company, telephone company, water company, or any combination of public service companies.

(2) "Public service company" does not include:

(i) a campground that provides water, electric, gas, sewage, or telephone service to campers incident to the campground's primary business of operating and maintaining the campground; or

(ii) a person that owns or operates equipment used for charging electric vehicles, including a person that owns or operates:

1. an electric vehicle charging station;

2. electric vehicle supply equipment; or

3. an electric vehicle charging station service company or provider.

(aa) (1) "Railroad" means a common carrier by rail powered in any manner.

(2) "Railroad" includes material, equipment, and property used on or in connection with a railroad.

(bb) (1) "Rate" means a toll, fare, tariff, fee, price, or other charge, or a combination of these items, by a public service company for public utility service.

(2) "Rate" includes a schedule, regulation, classification, or practice of a public service company that affects:

(i) the amount of a charge; or

(ii) the nature and value of the service rendered for the charge.

(cc) (1) "Record" means the original or a copy of any documentary material.

(2) "Record" includes an account, book, chart, contract, document, file, map, paper, profile, report, or schedule.

(dd) "Renewable energy resource" means one or more of the following sources of energy, energy technology, or related credit:

(1) solar;

(2) wind;

(3) tidal;

(4) geothermal;

(5) biomass, including waste–to–energy and landfill gas recovery;

(6) hydroelectric facilities;

(7) digester gas; and

(8) a manufacturing or commercial waste–to–energy system or facility.

(ee) (1) "Retail electric customer" means a purchaser of electricity for end use in the State.

(2) "Retail electric customer" includes:

(i) a person that owns or operates equipment used for charging electric vehicles, including:

1. an electric vehicle charging station;

2. electric vehicle supply equipment; or

3. an electric vehicle charging station service company or provider;

(ii) a person that charges an electric vehicle at an electric vehicle charging station that the person owns or operates; and

(iii) a commercial or industrial customer that purchases electricity in accordance with § 7–506.1 of this article.

(3) "Retail electric customer" does not include:

(i) an occupant of a building in which the owner/operator or lessee/operator manages the internal distribution system serving the building and supplies electricity and electricity supply services solely to occupants of the building for use by the occupants;

(ii) a person who generates on–site generated electricity, to the extent the on–site generated electricity is consumed by that person or its tenants; or

(iii) except as provided in paragraph (2)(ii) of this subsection, a person that charges an electric vehicle at an electric vehicle charging station.

(ff) (1) "Retail gas customer" means a purchaser of gas for end use in the State.

(2) "Retail gas customer" excludes an occupant of a building in which the owner/operator or lessee/operator manages the internal distribution system serving the building and supplies gas and gas supply services solely to occupants of the building for use by the occupants.

(gg) "Sewage disposal company" means a privately owned public service company that owns or maintains facilities for the disposal of sewage.

(hh) "Small rural electric cooperative" means an electric company that:

(1) serves only the consumers that exclusively own and control the company;

(2) conducts its business on a nonprofit basis; and

(3) supplies electricity to less than 1,000 electric meters in the State.

(ii) "State" means:

(1) a state, possession, territory, or commonwealth of the United States; or

(2) the District of Columbia.

(jj) "Street railroad" means a railroad:

(1) that is not part of a trunk line railway system; and

(2) whose routes are mainly within Baltimore City or a municipal corporation with a population of at least 2,000.

(kk) (1) "Taxicab" means a motor vehicle for hire that:

(i) is designed to carry seven or fewer individuals, including the driver; and

(ii) is used to accept or solicit passengers for transportation between points along public streets as the passengers request.

(2) "Taxicab" does not include a motor vehicle operated on a regular schedule and between fixed points with the approval of the Commission as defined in Title 11 of the Transportation Article.

(ll) "Telegraph company" means a public service company that:

(1) owns telegraph lines to receive, transmit, or communicate telegraphic communications; or

(2) leases, licenses, or sells telegraphic communications.

(mm) "Telegraph lines" means the material, equipment, and property owned by a telegraph company and used or to be used for or in connection with telegraph service.

(nn) (1) "Telephone company" means a public service company that:

(i) owns telephone lines to receive, transmit, or communicate local exchange telephone services, exchange access telephone services, or teletype communications;

(ii) leases, licenses, or sells local exchange telephone services, exchange access telephone services, or teletype communications; or

(iii) owns telephone lines to receive, transmit, or communicate telephone services to incarcerated individual facilities.

(2) "Telephone company" does not include a cellular telephone company.

(oo) "Telephone lines" means the material, equipment, and property owned by a telephone company and used or to be used for or in connection with telephone service.

(pp) "Toll bridge" means a bridge operated by a person authorized by the Commission to charge and collect toll from traffic using the bridge.

(qq) "Transformer" means a device consisting of two or more coils of insulated wire that is designed to transfer alternating current by electromagnetic induction from one coil to another to change the original voltage or current value.

(rr) "Transportation network company" has the meaning stated in § 10–101 of this article.

(ss) "Transportation network services" has the meaning stated in § 10–101 of this article.

(tt) (1) "Transportation of persons for hire" means the transportation of persons by:

(i) regularly scheduled operations;

(ii) charter or contract operations; or

(iii) tour or sightseeing operations.

(2) "Transportation of persons for hire" includes the transportation of persons, whether on the cooperative plan, carried by a corporation, group, or association engaged in the transportation of its stockholders, shareholders, or members.

(uu) "Water company" means a public service company that owns a water plant and sells or distributes water for gain.

(vv) "Water plant" means the material, equipment, and property owned by a water company and used or to be used for or in connection with water service.

§2–101.

(a) There is a Public Service Commission.

(b) The Commission is an independent unit in the Executive Branch of State government.

(c) The Commission shall carry out the functions assigned to it by law.

§2–102.

(a) The Commission consists of five commissioners, appointed by the Governor with the advice and consent of the Senate.

(b) (1) Each commissioner shall be a registered voter of the State.

(2) The Commission shall be:

(i) broadly representative of the geographic and demographic diversity of the State and of the public; and

(ii) composed of individuals with diverse training and experience.

(c) Each commissioner shall devote full time to the duties of office.

(d) (1) The term of a commissioner is 5 years and begins on July 1.

(2) The terms of commissioners are staggered as required by the terms in effect for commissioners on July 1, 2006.

(3) At the end of a term, a commissioner continues to serve until a successor qualifies.

(4) A commissioner who is appointed after a term has begun serves for the rest of the term and until a successor qualifies.

(e) Before taking office, each appointee to the Commission shall take the oath required by Article I, § 9 of the Maryland Constitution.

(f) The Governor may remove a commissioner for incompetence or misconduct in accordance with § 3-307 of the State Government Article.

§2–103.

(a) With the advice and consent of the Senate, the Governor shall appoint a Chairman.

(b) (1) The term of the Chairman is 5 years and begins on July 1.

(2) At the end of a term, the Chairman continues to serve until a successor qualifies.

(3) A Chairman who is appointed after a term has begun serves for the rest of the term and until a successor qualifies.

§2–104.

(a) The Commission shall appoint an Executive Secretary.

(b) The Executive Secretary serves at the pleasure of the Commission.

(c) The Executive Secretary shall:

(1) keep the records of the Commission, including a record of proceedings, all documents required to be filed with the Commission, all orders, regulations, and decisions of the Commission, and all dockets and files;

(2) certify true copies of those materials;

(3) designate an employee of the Commission to perform the duties of Executive Secretary when the Executive Secretary is absent; and

(4) perform the other duties that the Commission prescribes.

(d) With the approval of the Commission and in conformity with Title 10, Subtitle 6, Part III of the State Government Article, the Executive Secretary may destroy any record or document that the Commission possesses, including a record or document required by law to be filed with the Commission, if:

(1) the record or document has been on file for at least 3 years; and

(2) the Executive Secretary considers the document to be obsolete.

§2–105.

(a) The Commission shall appoint an Executive Director.

(b) The Executive Director serves at the pleasure of the Commission.

(c) The Executive Director shall:

(1) direct and coordinate the technical staff, except public utility law judges, of the Commission; and

(2) perform the other duties that the Commission prescribes.

§2–106.

(a) The Commission shall appoint a General Counsel.

(b) The General Counsel shall have been admitted to practice law in the State.

(c) The General Counsel serves at the pleasure of the Commission.

(d) As the Commission directs, the General Counsel shall:

(1) represent the Commission in a proceeding if the Commission is a party to or desires to intervene in the proceeding, if the proceeding involves a question under this division, or if the proceeding involves an act or order of the Commission;

(2) advise the Commission, on request, on any legal question that requires interpretation of a provision of law about the jurisdiction, rights, duties, or powers of the Commission; and

(3) act as attorney to the Commission as the Commission reasonably requires.

(e) The Commission may substitute any other agent for the General Counsel.

§2–107.

(a) Each commissioner, the Chairman of the Commission, the General Counsel, the Executive Secretary, and the Executive Director are entitled to compensation as provided in the State budget.

(b) (1) The salary of the Chairman of the Commission shall be at least $40,000 a year.

(2) The salary of each commissioner shall be at least $35,000 a year.

(c) A commissioner and other Commission personnel are entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

§2–108.

(a) (1) The principal office of the Commission shall be in Baltimore City at the place that the Commission selects.

(2) Except for legal holidays, the offices of the Commission shall be open for business during regular business hours from Monday through Friday and at other times as the Commission considers necessary.

(b) (1) The Commission shall meet at the times and places in the State as the Commission considers necessary.

(2) For purposes of the Open Meetings Act, a project site visit or educational field tour may not be considered a meeting of the Commission if no organizational business is conducted.

(c) The Commission shall have a seal.

(d) (1) The State budget shall provide sufficient money for the Commission to hire, develop, and organize a staff to perform the functions of the Commission, including analyzing data submitted to the Commission and participating in proceedings as provided in § 3–104 of this article.

(2) (i) As the Commission considers necessary, the Commission shall hire experts including economists, cost of capital experts, rate design experts, accountants, engineers, transportation specialists, and lawyers.

(ii) To assist in the regulation of intrastate hazardous liquid pipelines under Title 11, Subtitle 2 of this article, the Commission shall include on its staff at least one engineer who specializes in the storage of and the transportation of hazardous liquid materials by pipeline.

(3) The Commission shall include on its staff one or more employees that are experts in cybersecurity to:

(i) advise the Chairman of the Commission and the commissioners on measures to improve oversight of the cybersecurity practices of public service companies;

(ii) consult with the Office of Security Management on cybersecurity issues related to utility regulation;

(iii) assist the Commission in monitoring the minimum security standards developed under § 5–306 of this article;

(iv) participate in briefings to discuss cybersecurity practices based on:

1. applicable National Association of Regulatory Utility Commissioners guidance; and

2. improvements to cybersecurity practices recommended in the cybersecurity assessments required under § 5–306 of this article; and

(v) support public service companies that do not meet minimum security standards with remediating vulnerabilities or addressing cybersecurity assessment findings.

(4) The Commission may retain on a case by case basis additional experts as required for a particular matter.

(5) The lawyers who represent the Commission staff in proceedings before the Commission shall be appointed by the Commission and shall be organized and operate independently of the office of General Counsel.

(6) (i) As required, the Commission shall hire public utility law judges.

(ii) Public utility law judges are a separate organizational unit and shall report directly to the Commission.

(7) The Commission shall hire personal staff members for each commissioner as required to provide advice, draft proposed orders and rulings, and perform other personal staff functions.

(8) (i) The Commission shall:

1. collaborate with the Office of Security Management to establish cybersecurity standards and best practices for regulated entities, taking into account utility needs and capabilities based on size;

2. periodically share information on cybersecurity initiatives and best practices with municipal electric utilities; and

3. beginning on or before January 1, 2025, and every 2 years thereafter:

A. collect certifications of a public service company's compliance with standards used in the assessments conducted under § 5–306 of this article for cybersecurity–related policies and procedures; and

B. submit a report to the State Chief Information Security Officer, or the Officer's designee.

(ii) The report required under subparagraph (i) of this paragraph shall include:

1. a general overview of cybersecurity technology and policies used by public service companies in the State, grouped by the following types:

A. investor–owned electric companies;

B. electric cooperatives;

C. municipal electric companies;

D. gas companies; and

E. water companies;

2. general recommendations for improving cybersecurity technology and policies used by public service companies in the State, grouped by the following types:

A. investor–owned electric companies;

B. electric cooperatives;

C. municipal electric companies;

D. gas companies; and

E. water companies; and

3. for each certification collected:

A. the name of the public service company;

B. the date of the public service company's most recent cybersecurity assessment;

C. the cybersecurity framework used in the cybersecurity assessment of the public service company; and

D. the name of the entity that completed the cybersecurity assessment.

(9) Subject to § 3–104 of this article, the Commission may delegate to a commissioner or personnel the authority to perform an administrative function necessary to carry out a duty of the Commission.

(10) (i) Except as provided in subparagraph (ii) of this paragraph or otherwise by law, all personnel of the Commission are subject to the provisions of the State Personnel and Pensions Article.

(ii) The following are in the executive service, management service, or are special appointments in the State Personnel Management System:

1. each commissioner of the Commission;

2. the Executive Director;

3. the General Counsel and each assistant general counsel;

4. the Executive Secretary;

5. the commissioners' personal staff members;

6. the chief public utility law judge; and

7. each license hearing officer.

(e) The compensation of the following personnel shall be determined by the Commission and, if possible, in accordance with the State pay plan:

(1) the Executive Director;

(2) the General Counsel;

(3) the special appointment attorneys in the office of General Counsel;

(4) the Executive Secretary;

(5) the chief public utility law judge;

(6) each license hearing officer; and

(7) all Commission personnel in positions in:

(i) the management service; and

(ii) professional and technical classifications unique to the Commission.

(f) (1) At least 45 days before the effective date of the change, the Commission shall submit to the Secretary of Budget and Management each change to salary plans that involves increases or decreases in salary ranges other than those

associated with routine reclassifications and promotions or general salary increases approved by the General Assembly.

(2) Reportable changes include creation or abolition of classes, regrading the classes from one established range to another, changes in salary guidelines to administer the pay schedules, or creation of new pay schedules or ranges.

(3) The Secretary of Budget and Management shall:

(i) review the proposed changes; and

(ii) at least 15 days before the effective date of the proposed changes, advise the Commission whether the changes would have an adverse effect on comparable State jobs.

(4) Failure of the Secretary to respond in a timely manner is not considered a statement of adverse effect.

(g) On or before January 31 of each year, the Commission shall report to the Secretary of Budget and Management and, subject to § 2–1257 of the State Government Article, to the General Assembly setting forth all personnel positions, classifications, and salaries in the Commission as of the end of the preceding calendar year.

§2–109.

(a) (1) On request of the Commission, a public officer shall give to the Commission, without charge, a certified copy of a document or part of a document on file with the officer.

(2) Without charge, a public officer shall accept from the Commission any document authorized or required to be filed with the officer and shall enter, file, docket, or record the document.

(b) Each record of the Commission is a public record and shall be made available to the public at reasonable times.

§2–110.

(a) In this section, "public service company" includes an electricity supplier and a gas supplier as those terms are defined in § 1–101 of this article.

(b) (1) The costs and expenses of the Commission, the Strategic Energy Planning Office, and the Office of People's Counsel shall be borne by the public service companies that are subject to the Commission's jurisdiction.

(2) The costs and expenses shall be assessed as provided in this section.

(3) The Commission shall pay the money that it collects for the assessment under this section into the Public Utility Regulation Fund in the State Treasury established under § 2–110.1 of this subtitle to reimburse the State for the expenses of the Commission, the Strategic Energy Planning Office, and the Office of People's Counsel.

(c) (1) (i) Before each State fiscal year, the Chairman of the Commission shall estimate the Commission's total costs and expenses, including:

1. the compensation and expenses of the Commission, its officers, agents, and personnel;

2. the cost of retirement contributions, Social Security, health insurance, and other benefits required to be paid by the State for the personnel of the Commission;

3. all other maintenance and operation expenses of the Commission; and

4. all other direct and indirect costs of the Commission.

(ii) The estimate shall exclude the expenses associated with services performed by the Commission for which the Commission is reimbursed under this division.

(iii) The estimate shall include, as provided by the Strategic Energy Planning Office:

1. the compensation and expenses of the Strategic Energy Planning Office, its officers, agents, and personnel;

2. the cost of retirement contributions, Social Security, health insurance, and other benefits required to be paid by the State for the personnel of the Strategic Energy Planning Office;

3. all other maintenance and operation expenses of the Strategic Energy Planning Office; and

4. all other direct and indirect costs of the Strategic Energy Planning Office.

(iv) The estimate shall include, as provided by the Office of People's Counsel:

1. the compensation and expenses of the Office of People's Counsel, its officers, agents, and personnel;

2. the cost of retirement contributions, Social Security, health insurance, and other benefits required to be paid by the State for the personnel of the Office of People's Counsel;

3. all other maintenance and operation expenses of the Office of People's Counsel; and

4. all other direct and indirect costs of the Office of People's Counsel.

(2) Based on the estimate, the Chairman shall determine the amount to be paid by each public service company.

(3) The Commission shall send a bill to each public service company on or before May 1 of each year.

(4) (i) The bill shall equal the product of:

1. the estimated total costs and expenses of the Commission, the Strategic Energy Planning Office, and the Office of People's Counsel during the next fiscal year; multiplied by

2. the ratio of the gross operating revenues for the public service company derived from intrastate utility and electricity supplier operations in the preceding calendar year, or other 12–month period as the Chairman determines, to the total of the gross operating revenues derived from intrastate utility and electricity supplier operations for all public service companies that are billed under this section over that period.

(ii) To the extent that the Commission requires an electric company to report the gross operating revenue derived from intrastate utility and electricity supplier operation in order to calculate the bill under subparagraph (i) of this paragraph, a small rural electric cooperative described in § 7–502(a) of this article may satisfy the requirement by submitting to the Commission an estimate

made in accordance with a formula approved by the Commission from information that the small rural electric cooperative submits to the rural utilities service.

(5) The minimum bill for a public service company shall be $10.

(6) The public service company:

(i) shall pay the bill on or before the next July 15; or

(ii) may elect to make partial payments on the 15th days of July, October, January, and April.

(7) A partial payment shall equal 25% of the bill and may not be less than $10.

(8) During any State fiscal year, the Chairman may change the estimate of costs and expenses of the Commission, the estimate of costs and expenses of the Strategic Energy Planning Office, as changed by the Strategic Energy Planning Office, and the estimate of costs and expenses of the Office of People's Counsel, as changed by the People's Counsel.

(9) (i) If the estimate is changed, the Commission shall send a revised bill to each public service company that has elected to make partial payments.

(ii) The change shall be apportioned equally against the remaining payments for the fiscal year.

(10) (i) On or before September 15 of each year, the Chairman shall compute:

1. the actual costs and expenses of the Commission;

2. the actual costs and expenses of the Strategic Energy Planning Office, as provided by the Strategic Energy Planning Office for the preceding fiscal year; and

3. the actual costs and expenses of the Office of People's Counsel, as provided by the People's Counsel for the preceding fiscal year.

(ii) If the amounts collected are less than the actual costs and expenses of the Commission, the Strategic Energy Planning Office, and the Office of the People's Counsel, after deducting the amounts recovered under §§ 2–111(a) and 2–123 of this subtitle, on or before October 15, the Chairman shall send to any public service company that is affected a statement that shows the amount due.

(iii) If the amounts collected exceed the actual costs and expenses of the Commission, the Strategic Energy Planning Office, and the Office of the People's Counsel for the preceding fiscal year, the Commission shall deduct any excess retained funds from the appropriation for the next fiscal year before the Commission determines the amount to be paid by each public service company for the next fiscal year under paragraph (2) of this subsection.

(11) A public service company shall pay an amount due within 30 days after the statement is received.

(12) The total amount that may be charged to a public service company under this section for a State fiscal year may not exceed:

(i) 0.50% of the public service company's gross operating revenues derived from intrastate utility and electricity supplier operations in the preceding calendar year, or other 12–month period that the Chairman determines, for the costs and expenses of the Commission other than that of the Strategic Energy Planning Office and the Office of People's Counsel; plus

(ii) 0.074% of those revenues for the costs and expenses of the Strategic Energy Planning Office; plus

(iii) 0.074% of those revenues for the costs and expenses of the Office of People's Counsel.

(d) (1) Within 30 days after the Commission issues a bill under subsection (c) of this section, the party billed may request a hearing as to the amount of the bill.

(2) Any amount of a bill that is not paid within 30 days after the date of determination on a hearing or, if a hearing is not requested, on the date when payment is due, shall bear annual interest at a rate, not less than 6%, that the Commission sets by regulation.

§2–110.1.

(a) There is a Public Utility Regulation Fund.

(b) The Fund consists of:

(1) all revenue received through the imposition and collection of assessments under § 2–110 of this subtitle;

(2) fees received by the Commission under § 2–123 of this subtitle for filings and for other services rendered by the Commission;

(3) income from investments that the State Treasurer makes for the Fund; and

(4) any other fee, examination assessment, or revenue received by the Commission under this division.

(c) Notwithstanding subsection (b) of this section, the Commission shall pay all fines and penalties collected by the Commission under this article into the Resiliency Hub Grant Program Fund established under § 9–2011 of the State Government Article.

(d) The purpose of the Fund is to pay all the costs and expenses incurred by the Commission, the Strategic Energy Planning Office, and the Office of People's Counsel that are related to the operation of the Commission, the Strategic Energy Planning Office, and the Office of People's Counsel, including:

(1) expenditures authorized under this division; and

(2) any other expense authorized in the State budget.

(e) (1) All the costs and expenses of the Commission, the Strategic Energy Planning Office, and the Office of People's Counsel shall be included in the State budget.

(2) Expenditures from the Fund to cover costs and expenses of the Commission, the Strategic Energy Planning Office, and Office of People's Counsel may only be made:

(i) with an appropriation from the Fund approved by the General Assembly in the State budget; or

(ii) by budget amendment in accordance with § 7–209 of the State Finance and Procurement Article.

(f) (1) The State Treasurer is the custodian of the Fund.

(2) The State Treasurer shall deposit payments received from the Commission into the Fund.

(g) (1) The Fund is a continuing, special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article, and may not be considered a part of the General Fund of the State.

(2) Unless otherwise provided by law, no part of the Fund may revert or be credited to:

(i) the General Fund of the State; or

(ii) any other special fund of the State.

§2–111.

(a) The Commission may charge reasonable fees for copies of Commission documents.

(b) The Commission may charge $1 to issue or renew a taxicab driver license and $2 to issue a duplicate taxicab driver license.

§2–112.

(a) (1) Except as provided in paragraph (2) of this subsection, to the full extent that the Constitution and laws of the United States allow, the Commission has jurisdiction over each public service company that engages in or operates a utility business in the State and over motor carrier companies as provided in Title 9 of this article.

(2) Except as provided in Title 5, Subtitle 6, Part VI of the Corporations and Associations Article, the Commission does not have jurisdiction over a member–regulated cooperative as defined in § 5–601 of the Corporations and Associations Article.

(b) (1) The Commission has the powers specifically conferred by law.

(2) The Commission has the implied and incidental powers needed or proper to carry out its functions under this division.

(c) The powers of the Commission shall be construed liberally.

§2–113.

(a) (1) The Commission shall:

(i) supervise and regulate the public service companies subject to the jurisdiction of the Commission to:

1. ensure their operation in the interest of the public; and

2. promote adequate, economical, and efficient delivery of utility services in the State without unjust discrimination; and

(ii) enforce compliance with the requirements of law by public service companies, including requirements with respect to financial condition, capitalization, franchises, plant, manner of operation, rates, and service.

(2) In supervising and regulating public service companies, the Commission shall consider:

(i) the public safety;

(ii) the economy of the State;

(iii) the maintenance of fair and stable labor standards for affected workers;

(iv) the conservation of natural resources;

(v) the preservation of environmental quality, including protection of the global climate from continued short–term and long–term warming based on the best available scientific information recognized by the Intergovernmental Panel on Climate Change;

(vi) the achievement of the State's climate commitments for reducing statewide greenhouse gas emissions, including those specified in Title 2, Subtitle 12 of the Environment Article; and

(vii) the protection of a public service company's infrastructure against cybersecurity threats.

(b) The powers and duties listed in this title do not limit the scope of the general powers and duties of the Commission provided for by this division.

§2–114.

To inspect a plant of a public service company, the Commission may:

(1) have access to the plant;

(2) set up and use equipment in the plant as needed; and

(3) occupy space in the plant as the Commission considers reasonably necessary to inspect or test.

§2–115.

(a) The Commission shall initiate and conduct any investigation necessary to execute its powers or perform its duties under this division.

(b) The Commission may:

(1) examine the records of a public service company;

(2) compel production of the records by subpoena; and

(3) require verified copies of the records to be filed with the Commission.

§2–116.

(a) (1) As it considers desirable, the Commission may conduct proceedings on proposed amendments to any law that, in the judgment of the Commission, would affect the public interest in any aspect of the business of a public service company.

(2) On request of the Governor, the General Assembly, or either house of the General Assembly, the Commission shall conduct proceedings on proposed amendments to any law that, in the judgment of the Commission, would affect the public interest in any aspect of the business of a public service company.

(b) (1) The Commission may recommend or prepare legislation on any matter within or related to the jurisdiction of the Commission.

(2) If a proceeding under this section was held on request, subject to § 2-1257 of the State Government Article, the Commission shall report its conclusions to the person or body who requested the proceeding.

§2–117.

(a) (1) If the Commission believes that a public service company or gas master meter operator that is subject to the Commission's jurisdiction is violating or

will violate this division, the Commission shall bring an action in the Commission's name for injunction or other appropriate action in the circuit court of a county where the public service company or gas master meter operator does business or has its principal place of business.

(2) The court:

(i) shall allow a period not exceeding 20 days for the defendant to show cause why the relief sought should not be granted;

(ii) after the period, shall inquire immediately into the merits of the case, without other or formal pleadings and without respect to any technical requirement;

(iii) may join as parties any persons as is necessary or proper to make a judgment or process effective; and

(iv) shall issue a final order that grants appropriate relief.

(b) (1) The Commission shall notify an offender to appear and answer charges on complaint filed by a carrier or on discovery of a violation or infringement by the Commission's own investigation that:

(i) the offender is or has been infringing on or violating a permit granted to the carrier by the Commission;

(ii) the offender, without a permit, is exercising or using a right granted in a permit;

(iii) a right granted in a permit is being subjected to unrestricted or unregulated competition; or

(iv) the offender, without a permit, is serving, wholly or partly, directly or indirectly, a route set forth in a granted permit.

(2) The notice shall be sent to or served on the offender as provided by § 3-103 of this article.

(3) If the Commission finds that the offender is violating or infringing, or has violated or infringed on the rights of a carrier, the Commission shall order the offender to stop the operations that led to the violation or infringement.

(4) If the offender does not obey the order of the Commission, the Commission shall notify the offender to show cause within 10 days after the notice is

mailed or served why the registration certificate for each vehicle involved in the operations should not be suspended or revoked.

(5) If cause is not shown or if, after hearing, the Commission finds that cause is not shown, the Commission shall certify to the Motor Vehicle Administration:

(i) that the registration certificate of each vehicle involved in the operations shall be suspended or revoked;

(ii) the condition of the suspension or revocation; and

(iii) if possible, the license number of each vehicle for which the certificate of registration is to be suspended or revoked.

(6) On receipt of the certification, the Motor Vehicle Administration automatically shall suspend or revoke each certificate of registration in accordance with the conditions contained in the certification.

(7) The action of the Motor Vehicle Administration may not be appealed but judicial review of an order or certification of the Commission may be sought as provided in Title 3, Subtitle 2 of this article.

§2–118.

(a) This section does not apply to:

(1) taxicabs;

(2) powerboat companies;

(3) toll bridges;

(4) towing and lightering companies; or

(5) small rural electric cooperatives described in § 7-502(a) of this article.

(b) The Commission shall require each public service company subject to its jurisdiction to formulate and, after approval by the Commission, to implement long-range plans to provide regulated service.

(c) The Commission shall require each electric company in the State to include in the long-range plan adequate, cost-effective provisions to promote energy

conservation to decrease or moderate electric and, as appropriate, natural gas demand for regulated service from customers.

(d) (1) The Commission shall review each plan for adequacy under the criteria of § 2-113 of this subtitle, giving attention to the interrelationship of services of other public service companies and to provisions for research and development to ensure adequate service.

(2) As part of the review, and subject to any applicable Freedom of Information Act, the Commission shall consult with other State units and provide an opportunity for public comment.

(3) The Commission shall require the revisions to a plan that the Commission considers appropriate unless the authority to review and approve a plan has been granted to another State unit by other law.

§2–119.

As the interests of the people of this State are affected, the Commission:

(1) shall study the rates and service of public service companies in interstate commerce beyond the jurisdiction of the Commission; and

(2) may apply to and appear before appropriate federal units to protect those interests.

§2–120.

Under interstate compacts or agreements or under the concurrent power of states to regulate interstate commerce, or as an agency of the federal government, or otherwise, the Commission may act jointly or concurrently with an official board or commission of the United States or a state in a proceeding relating to the regulation of a public service company.

§2–121.

The Commission may adopt reasonable regulations as necessary to carry out any law that relates to the Commission.

§2–122.

(a) (1) On or before May 1 of each year, the Commission shall publish an annual report that summarizes the activities of the Commission that includes:

(i) a summary of each regulation, opinion, or order that the Commission adopted, entered, or passed during the year; and

(ii) any other information that the Commission considers of value.

(2) The Commission shall send a copy of the report to the Governor and, subject to § 2–1257 of the State Government Article, to the General Assembly.

(b) Each year, the Commission shall publish a report that includes:

(1) the progress of the residential conservation service plan;

(2) Commission activities to moderate peak electric demand; and

(3) energy conservation measures taken by gas companies and electric companies in the State to reduce electrical and natural gas demand.

§2–123.

(a) In accordance with this section, the Commission may charge reasonable and nondiscriminatory fees for the filing of documents with the Commission and for other services performed by the Commission.

(b) Actions for which the Commission may charge a fee include:

(1) an initial tariff or tariff change;

(2) a certificate of public convenience and necessity;

(3) an application to provide or abandon service;

(4) a preparation of any record in appeal;

(5) a certification of any document;

(6) an application or petition to increase or decrease rates;

(7) an annual report;

(8) a copy of papers, testimony, microfiche, records, and computer printouts; and

(9) any other filing or service for which the Commission reasonably determines that a fee is required.

(c) (1) In determining the amount of a fee to be charged for a filing or other service performed by the Commission, the Commission shall consider the estimated expense associated with the filing or other service.

(2) (i) The Commission shall waive a fee charged under this section for a filing by a unit of State government or for a service performed by the Commission for a unit of State government.

(ii) The Commission may waive a fee charged under this section if the Commission determines that the waiver is in the public interest.

(d) A document for which a filing fee is required may be received by the Commission at any time, but may not be considered filed until the filing fee has been paid.

(e) The Commission shall deposit all fees collected under this section in the Public Utility Regulation Fund.

(f) The Commission shall adopt regulations to set reasonable and nondiscriminatory fees for filing and other services performed by the Commission.

§2–201.

In this subtitle, "residential and noncommercial users" means:

(1) residential users of gas, electricity, telephones, or water and sewerage; and

(2) noncommercial users of other services regulated by the Commission.

§2–202.

(a) With the advice and consent of the Senate, the Attorney General shall appoint the People's Counsel.

(b) (1) The term of the People's Counsel is 5 years and begins on July 1.

(2) At the end of a term, the People's Counsel continues to serve until a successor is appointed and qualifies.

(3) A People's Counsel who is appointed after a term has begun serves for the rest of the term and until a successor is appointed and qualifies.

(c) The People's Counsel shall have been admitted to practice law in the State.

(d) Before taking office, the People's Counsel shall take the oath required by Article I, § 9 of the Maryland Constitution.

(e) The People's Counsel shall devote full time to the duties of office.

(f) The People's Counsel is entitled to a salary of at least $35,000 a year as provided in the State budget.

(g) The Attorney General may remove the People's Counsel for good cause shown after notice and an opportunity to be heard.

§2–203.

(a) (1) The State budget shall provide sufficient money for the Office of People's Counsel to hire necessary staff in addition to the staff assistance that is provided under § 2–205(c)(2) of this subtitle.

(2) The Office of People's Counsel shall hire at least one assistant people's counsel who will focus on environmental issues.

(b) (1) Except as provided in paragraph (2) of this subsection or otherwise by law, all personnel of the Office of People's Counsel are subject to the provisions of the State Personnel and Pensions Article.

(2) The following are in the executive service, management service, or are special appointments in the State Personnel Management System:

(i) the People's Counsel;

(ii) the deputy People's Counsel; and

(iii) attorneys that are in the management service or are special appointments.

(c) The compensation of the following personnel shall be determined by the People's Counsel and, if possible, in accordance with the State pay plan:

(1) the deputy People's Counsel;

(2) attorneys that are:

(i) in the management service; or

(ii) special appointments; and

(3) all positions in management, professional and technical classifications unique to the Office of People's Counsel.

(d) (1) At least 45 days before the effective date of the change, the People's Counsel shall submit to the Secretary of Budget and Management each change to salary plans that involves increases or decreases in salary ranges other than those associated with routine reclassifications and promotions or general salary increases approved by the General Assembly.

(2) Reportable changes include creation or abolition of classes, regrading the classes from one established range to another, changes in salary guidelines to administer the pay schedules, or creation of new pay schedules or ranges.

(3) The Secretary of Budget and Management shall:

(i) review the proposed changes; and

(ii) at least 15 days before the effective date of the proposed changes, advise the People's Counsel whether the changes would have an adverse effect on comparable State jobs.

(4) Failure of the Secretary to respond in a timely manner is not considered a statement of adverse effect.

(e) On or before January 31 of each year, the People's Counsel shall report to the Secretary of Budget and Management and, subject to § 2-1257 of the State Government Article, to the General Assembly setting forth all personnel positions, classifications, and salaries in the Office of People's Counsel as of the end of the preceding calendar year.

(f) The Office of People's Counsel may retain as necessary for a particular matter or hire experts in the field of:

(1) utility regulation, including cost of capital experts, rate design experts, accountants, economists, engineers, transportation specialists, and lawyers; and

(2) climate change, including meteorologists, oceanographers, ecologists, foresters, geologists, seismologists, botanists, and experts in any other field of science that the People's Counsel determines is necessary.

§2–204.

(a) (1) (i) The Office of People's Counsel shall evaluate each matter pending before the Commission to determine if the interests of residential and noncommercial users are affected.

(ii) In determining whether the interests of residential and noncommercial users are affected, the Office of People's Counsel shall consider the public safety, economic welfare, and environmental interests of the State and its residents, including the State's progress toward meeting its greenhouse gas emissions reductions goals.

(2) If the Office of People's Counsel considers the interest of residential and noncommercial users to be affected, the Office of People's Counsel shall appear before the Commission and courts on behalf of residential and noncommercial users in each matter or proceeding over which the Commission has original jurisdiction, including a proceeding on the rates, service, or practices of a public service company or on a violation of this division.

(3) As the Office of People's Counsel considers necessary, the Office of People's Counsel shall conduct investigations and request the Commission to initiate proceedings to protect the interests of residential and noncommercial users.

(b) The People's Counsel shall administer and operate the Office of People's Counsel.

§2–205.

(a) In appearances before the Commission and courts on behalf of residential and noncommercial users, the Office of People's Counsel has the rights of counsel for a party to the proceeding, including those rights specified in § 3-107 of this article.

(b) The Office of People's Counsel may appear before any federal or State unit to protect the interests of residential and noncommercial users.

(c) (1) Except as otherwise provided in this article and consistent with any applicable Freedom of Information Act, the Office of People's Counsel shall have

full access to the Commission's records and shall have the benefit of all other facilities or information of the Commission.

(2) The Office of People's Counsel is entitled to the assistance of the Commission's staff, if the staff determines that the assistance is consistent with the staff's responsibilities and if the staff and the Office of People's Counsel agree that the assistance, in a particular matter, is consistent with their respective interests.

(d) If the Office of People's Counsel considers that the legislation would affect the interests of residential and noncommercial users, the Office of People's Counsel may recommend to the General Assembly legislation on any matter related to the Commission's jurisdiction.

§2–206.

If the budget for the Office of People's Counsel is insufficient to allow it to perform its duties, the Office of People's Counsel may apply to the Board of Public Works for additional money from the General Emergency Fund.

§2–301.

In this subtitle, "relative" means an individual related by blood or marriage.

§2–302.

This subtitle applies to commissioners, the General Counsel, the People's Counsel, officers and employees of the Office of People's Counsel, and the officers and employees of the Commission.

§2–303.

(a) This section applies to each individual subject to § 2–302 of this subtitle and to:

(1) each spouse, dependent child, parent, brother, or sister of each commissioner, the People's Counsel, the General Counsel, and each public utility law judge; and

(2) each spouse or dependent child of each other officer or employee of the Commission or Office of People's Counsel.

(b) An individual subject to this section may not:

(1) hold an official relation to or connection with a public service company; or

(2) have a pecuniary interest in a public service company as the holder of stock or other securities or otherwise.

§2–304.

An individual subject to § 2-302 of this subtitle may not hold an office or position or engage in a business or avocation that is incompatible with the duties of office or service with the Commission or Office of People's Counsel.

§2–305.

An individual subject to § 2-302 of this subtitle may not solicit, suggest, request, or recommend directly or indirectly to a public service company that a person be appointed to an office or place of employment.

§2–306.

(a) Until at least 2 years have passed after leaving service as a commissioner or the People's Counsel, an individual may not:

(1) represent a public service company before the Commission;

(2) appear before the Commission on behalf of a party to a Commission proceeding; or

(3) appear before the Commission on a matter within the jurisdiction of the Commission.

(b) Until at least 1 year has passed after leaving service with the Commission as the General Counsel or a public utility law judge, an individual may not:

(1) represent a public service company before the Commission;

(2) appear before the Commission on behalf of a party to a Commission proceeding; or

(3) appear before the Commission on a matter within the jurisdiction of the Commission.

(c) Until at least 1 year has passed after leaving service with the Commission as a commissioner, an individual may not receive financial benefit that is not otherwise generally available to the public as a customer of a public service company from:

(1) a public service company that is subject to the jurisdiction of the Commission; or

(2) a person that directly or indirectly, or through one or more intermediaries, controls, is controlled by, or is under common control with a public service company that is subject to the jurisdiction of the Commission.

§2–307.

(a) This section applies to each individual subject to § 2–302 of this subtitle and to:

(1) each spouse, dependent child, parent, brother, or sister of each commissioner, the People's Counsel, the General Counsel, and each public utility law judge; and

(2) each spouse or dependent child of each other officer or employee of the Commission or Office of People's Counsel.

(b) (1) An individual subject to this section may not accept from a public service company or its officers, agents, or employees, a gift, gratuity, or special consideration.

(2) This subsection does not preclude an individual from accepting a gift from a relative.

§2–308.

(a) This section applies to each individual subject to § 2–302 of this subtitle and to:

(1) each spouse, dependent child, parent, brother, or sister of each commissioner, the People's Counsel, the General Counsel, and each public utility law judge; and

(2) each spouse or dependent child of each other officer or employee of the Commission or Office of People's Counsel.

(b) (1) A public service company or its officer, agent, or employee may not offer a gift, gratuity, or special consideration to an individual subject to this section.

(2) This section does not preclude an individual from offering a gift to a relative.

§2–309.

Except as directed by the Commission or a court or as authorized by law, an individual subject to § 2-302 of this subtitle may not divulge information learned while inspecting the plant or examining the records of a public service company.

§2–310.

An individual subject to § 2–302 of this subtitle may not violate this division.

§3–101.

(a) A proceeding before the Commission shall be governed by the regulations and practices of the Commission in conformity with this title.

(b) The Commission is not bound by the rules of evidence or procedure of any court.

(c) An official act of the Commission:

(1) is valid if it substantially complies with the requirements of this division; and

(2) may not be vitiated by any technical deficiency.

§3–102.

(a) (1) Any person may file a complaint with the Commission.

(2) The complaint shall be in writing and set forth circumstances that allege a violation of this division by a public service company.

(b) If a complaint filed under subsection (a) of this section states on its face a violation of this article or if the Commission determines that the complaint deserves an explanation, the Commission shall:

(1) serve a copy of the complaint on the public service company; and

(2) issue an order that requires the public service company to satisfy or answer the complaint in writing within a specified time.

(c) A person that is the subject of a complaint filed by any person or the Commission is entitled to a hearing in a contested case that results from the complaint.

(d) (1) Subject to paragraph (2) of this subsection, the Commission must conduct an investigation of the matters in a complaint filed under this section if the complaint concerns the following:

(i) the quality or reliability of gas supply or electric power supply; or

(ii) the price of gas or electricity.

(2) In order to be entitled to an investigation under paragraph (1) of this subsection, the complaint shall be signed by:

(i) the People's Counsel;

(ii) the chief executive or local legislative body of a municipal corporation or county in which a gas or electric company is authorized to operate; or

(iii) not less than 100 customers of the gas company or electric company, with the names and addresses of the customers set out in the complaint.

(e) (1) The Commission shall begin proceedings on its own motion against a person by filing a complaint.

(2) The complaint filed under paragraph (1) of this subsection for the first time in a proceeding shall be served on the person that is the subject of the complaint before any hearing on the matter.

(f) Unless a complaint is voluntarily satisfied, the Commission shall take final action on each complaint by issuing an order that:

(1) dismisses the complaint;

(2) directs full or partial satisfaction of the complaint; or

(3) directs any action that the Commission considers to be warranted.

§3–103.

(a) The service of a document or notice relating to a proceeding before the Commission under this division shall be sufficient:

(1) if made personally through the sheriff's office in the county in which service may be made or by an adult; or

(2) except as provided in subsections (b) and (c) of this section, if mailed by first–class mail, postage prepaid, to the last known address of the person to be served.

(b) Service of complaints and accompanying documents shall be sufficient if they are mailed by registered first–class mail, postage prepaid, to the last known address of the person to be served.

(c) Service of subpoenas shall be sufficient only if made personally through the sheriff's office in the county in which service may be made or by an adult.

§3–104.

(a) (1) The Commission shall institute and conduct proceedings reasonably necessary and proper to the exercise of its powers or the performance of its duties.

(2) The Commission shall conduct its proceedings en banc or in panels of:

(i) at least three commissioners; or

(ii) one public utility law judge and at least two commissioners.

(3) A quorum consists of a majority of the Commission or a majority of a panel.

(b) (1) The Commission, a commissioner, or a public utility law judge may conduct hearings, examine witnesses, administer oaths, and perform any other acts necessary to the conduct of proceedings.

(2) The Executive Secretary of the Commission may administer oaths.

(3) Each record of a proceeding of the Commission is a public record.

(c) To the extent necessary to receive public comment for each application for a rate increase, the Commission shall hold a hearing at a convenient location and time during evening hours:

(1) in person in the service area affected; or

(2) virtually, with appropriate notice provided so that persons in the service area affected may participate in the hearing.

(d) (1) The Commission may delegate to a commissioner or to a public utility law judge the authority to conduct a proceeding that is within the Commission's jurisdiction.

(2) In a delegated proceeding, the commissioner or public utility law judge shall:

(i) conduct the hearing and any other proceeding that the commissioner or public utility law judge considers necessary; and

(ii) file with the Commission, and simultaneously serve on all parties, a proposed order and findings of fact.

(3) The proposed order shall become final unless appealed as provided in § 3–113(d) of this subtitle.

(e) (1) This subsection applies unless, after considering any staff recommendation as to the extent of staff participation, the Commission determines that the public interest would not be served by staff participation.

(2) In each matter before the Commission, the staff of the Commission shall:

(i) analyze the data submitted to the Commission;

(ii) prepare a staff position based on that analysis; and

(iii) make an evidentiary presentation setting forth the staff's analysis of the issues and its recommendations.

(3) In making analyses and recommendations, the staff is:

(i) governed by the criteria in § 2–113 of this article; and

(ii) a party and has the rights of a party to the proceeding, including the rights specified in § 3–107 of this subtitle.

(4) The staff shall present direct and redirect cases of its own, cross–examine, submit briefs, and engage in oral argument as the staff considers necessary to ensure that the Commission has a complete record on all relevant issues in a particular case.

§3–105.

The Commission shall give preferential consideration to the following in descending order:

(1) the hearing and decision of questions involving the rates of a public service company;

(2) requests by a public service company to discontinue or abandon service under any franchise, right, or permit after its expiration date; and

(3) any other questions pending before the Commission.

§3–106.

(a) If a person timely files, the person may apply to intervene in a proceeding before the Commission.

(b) The Commission shall grant leave to intervene unless the Commission concludes that:

(1) the parties to the proceeding adequately represent the interest of the person seeking to intervene; or

(2) the issues that the person seeks to raise are irrelevant or immaterial.

(c) (1) An intervenor has all the rights of a party to a proceeding.

(2) In a proceeding before the Commission, an individual who is an intervenor may represent himself or herself.

§3–107.

In addition to any other right a party in a proceeding before the Commission may be entitled to, the party may:

(1) summon witnesses, present evidence, and present argument;

(2) conduct cross-examination and submit rebuttal evidence; and

(3) take depositions in or outside of the State, subject to regulation by the Commission to prevent undue delay, and in accordance with the procedure provided by law or rule of court with respect to civil actions.

§3–108.

Unless notice is provided to each other party in a case before the Commission, a party or person acting on behalf of a party may not contact ex parte a commissioner or a public utility law judge regarding the merits of the case.

§3–109.

(a) On the request of a party to a proceeding in which a hearing is required or held, the Commission shall issue subpoenas to compel the attendance and testimony of witnesses and the production of documents at a hearing or deposition to be taken by the party.

(b) On its own motion, the Commission may issue a subpoena to compel the attendance and testimony of witnesses and the production of documents at a hearing or deposition to be taken by the Commission.

(c) A subpoena shall be signed and issued by a commissioner or the Executive Secretary of the Commission.

(d) (1) The Commission may exercise the full authority set forth in 42 U.S.C. § 16453(a) through (c) as if set forth in this article.

(2) Nothing in the grant of authority set forth in paragraph (1) of this subsection may be construed to preempt or limit any other authority of the Commission under this article.

(3) In addition to the authority granted to the Commission under federal law to enforce the provisions of 42 U.S.C. § 16453, the circuit courts of the State have jurisdiction to enforce compliance with this subsection.

§3–110.

(a) A person shall:

(1) attend a proceeding before the Commission, if ordered by the Commission, a commissioner, or the Executive Secretary of the Commission; and

(2) give any relevant testimony or produce any relevant evidence, if ordered by the Commission, a commissioner, or an authorized hearing examiner.

(b) (1) If a person refuses without valid cause to comply with an order issued under subsection (a) of this section, on affidavit that sets forth the violation to a court of general jurisdiction, the Commission or a commissioner may apply for an order to show cause why the person should not be held in contempt.

(2) An order issued under paragraph (1) of this subsection shall be returned to the court that issued the order, not less than 2 days and not more than 5 days after the date of issue.

(3) On the return of an order issued under this subsection, if the court determines that the person has violated subsection (a) of this section and persists in the violation, the court may hold the person in contempt.

(c) (1) A person may not refuse to comply with subsection (a)(2) of this section on the ground that giving testimony or producing evidence may tend to incriminate or subject the person to penalty or forfeiture.

(2) Except for perjury committed by an individual giving evidence before the Commission, an individual may not be prosecuted, punished, or subjected to penalty or forfeiture for producing any evidence required under subsection (a) of this section.

§3–111.

(a) In each hearing, the Commission shall prepare an official record that includes testimony and exhibits.

(b) (1) Any evidence, including records possessed by the Commission, that the Commission or a party in a proceeding before the Commission desires to use, shall be offered and made part of the record.

(2) Factual information or evidence not made part of the record may not be considered in the determination of a case.

(c) A copy of a record filed with or by the Commission that is certified by the Commission under its official seal as a true copy of the original, is evidence to the same extent as the original.

(d) (1) The Commission may take notice of judicially cognizable facts and also of general, technical, or scientific facts within its specialized knowledge.

(2) The Commission shall notify each party in an appropriate manner of the material noticed under paragraph (1) of this subsection, and shall provide each party an opportunity to contest the notice by the Commission.

§3–112.

(a) In a proceeding before the Commission where a person applies for the approval of the Commission under § 5–104, §§ 5–201 through 5–203, or §§ 6–101 through 6–103 of this article, the person shall show by clear and satisfactory evidence that granting the application complies with the requirements of this division and, as the case may be, is required by the public interest or is consistent with the public interest.

(b) In a proceeding involving a temporary or permanent new rate, or a temporary or permanent change in rate, the burden of proof is on the proponent of the new rate or change in rate.

§3–113.

(a) A decision and order of the Commission in a contested proceeding shall:

(1) be based on consideration of the record;

(2) be in writing;

(3) state the grounds for the conclusions of the Commission; and

(4) in the case of a complaint proceeding between two public service companies, be issued within 180 days after the close of the record.

(b) An order of the Commission shall take effect within a reasonable time that the Commission prescribes, and shall continue in force according to the terms of the order unless vacated, suspended, modified, or superseded by further order of the Commission or by a court of competent jurisdiction.

(c) (1) A person served with an order of the Commission shall promptly notify the Commission in writing of receipt of service.

(2) For notification by a corporation under paragraph (1) of this subsection, a person authorized to accept service for the corporation shall sign the notice.

(3) The Commission may require in an order that notice be provided to the Commission:

(i) within the time specified in the order;

(ii) in the same manner as notice provided in paragraph (1) of this subsection; and

(iii) describing if, and to what extent, the order is accepted and will be obeyed.

(d) (1) An order of a panel constituted under § 3–104(a) of this subtitle is final.

(2) (i) A proposed order of a commissioner or public utility law judge under § 3–104(d) of this subtitle becomes final unless a party to the proceeding notes an appeal with the Commission within the time period for appeal designated in the proposed order.

(ii) The time period for appeal designated in the proposed order is 30 days unless the order specifies a shorter period of at least 7 days.

(3) On appeal, the Commission promptly shall:

(i) consider the matter on the record before the commissioner or public utility law judge;

(ii) conduct any further proceedings that it considers necessary including requiring the filing of briefs and the holding of oral argument; and

(iii) issue a final order.

(e) Notwithstanding the Administrative Procedure Act, unless a provision of this article specifically requires the Commission to act through regulation, the Commission may implement any provision of this article by either order or regulation as the Commission deems necessary and proper.

§3–114.

(a) On rehearing, the Commission may:

(1) consider facts not presented in the original hearing, including facts arising after the date of the original hearing; and

(2) abrogate, change, or modify the original order by new order.

(b) Except as otherwise ordered by the Commission, the rehearing or application for the rehearing does not:

(1) stay the enforcement of an order of the Commission; or

(2) excuse a person affected by the order from complying with the terms of the order.

(c) (1) A party in interest may apply to the Commission for rehearing within 30 days after service of a final order on the party.

(2) The Commission may:

(i) act on the application; and

(ii) rehear a final order or conduct further proceedings on its own motion after the filing of a proposed order, as the Commission considers necessary.

(3) If a rehearing is granted on an application under this subsection, the Commission shall decide the case within 30 days after the case is finally submitted on rehearing.

§3–201.

(a) Notwithstanding § 10–120 of the State Government Article, the validity of a regulation of the Commission shall be challenged in accordance with § 10–125 of the State Government Article.

(b) A party to a Commission proceeding, a person that has been granted intervention in a Commission proceeding, or a person that has been ordered to participate in a Commission proceeding that seeks to challenge a decision by the Commission to act by order rather than regulation shall seek judicial review of the Commission's decision within 30 days after the Commission issues a final order in that proceeding.

(c) Notwithstanding any provision of the Administrative Procedure Act, an order of the Commission issued on or before June 30, 2000, in a generic or quasi–legislative proceeding, that is not the subject of a judicial proceeding pending as of

June 1, 2004, is not invalid or unenforceable as a result of the order meeting the definition of a regulation under § 10–101 of the State Government Article.

§3–202.

(a) Except for the staff of the Commission, a party or person in interest, including the People's Counsel, that is dissatisfied by a final decision or order of the Commission may seek judicial review of the decision or order as provided in this subtitle.

(b) The Secretary of Natural Resources may seek judicial review under this subtitle of a final decision or order of the Commission made under §§ 7-201 through 7-204, § 7-207, or § 7-208 of this article that relates to the environmental aspects of power plant siting.

(c) The Secretary of the Environment may seek judicial review of a final decision or order of the Commission made under §§ 7-205 and 7-206 of this article.

(d) If the Motor Vehicle Administration suspends or revokes the registration of a motor vehicle carrier in accordance with an order of the Commission, only the order of the Commission is subject to review under this section.

§3–203.

Every final decision, order, or regulation of the Commission is prima facie correct and shall be affirmed unless clearly shown to be:

(1) unconstitutional;

(2) outside the statutory authority or jurisdiction of the Commission;

(3) made on unlawful procedure;

(4) arbitrary or capricious;

(5) affected by other error of law; or

(6) if the subject of review is an order entered in a contested proceeding after a hearing, unsupported by substantial evidence on the record considered as a whole.

§3–204.

(a) A proceeding for review under § 3–202 of this subtitle shall be instituted in:

(1) the circuit court for any county in which the public service company that was a party in the proceeding provides service; or

(2) the Circuit Court for Baltimore City.

(b) If more than one proceeding to review an order or final decision of the Commission is instituted, on motion of any party, the court may transfer the proceeding to another court that has jurisdiction.

(c) If a rehearing by the Commission is applied for, a proceeding for judicial review may be filed after service of the decision of the Commission that denies the rehearing.

(d) The Commission may be a party to an appeal made under this section.

§3–205.

The Commission may, on terms it considers appropriate, stay the enforcement of a regulation or order that is the subject of a proceeding for review under this subtitle.

§3–206.

(a) After an answer has been filed in a proceeding for review under § 3–202 of this subtitle, the matter shall stand ready for trial on 15 days' notice by any party.

(b) (1) This subsection does not apply to proceedings before the Appellate Court of Maryland or the Supreme Court of Maryland.

(2) A court shall give preference to a proceeding under this subtitle over all other civil actions except actions concerning elections, regardless of the position of the other actions on the docket.

(3) A court shall always be open for the trial of a proceeding under this subtitle.

§3–207.

(a) (1) (i) By stipulation of all parties to a proceeding for review under § 3-202 of this subtitle, the court may shorten the record to be transmitted to the court.

(ii) If the court determines that a party's refusal to stipulate to limit the record is unreasonable, the court may assess the additional costs against the refusing party.

(2) The court may require or allow corrections of the record before the Commission or the certification of additional parts of the record as the court considers appropriate.

(b) Notwithstanding any other provision of law or rule of court to the contrary, a transcript need not be filed until after the expiration of the period of time for the filing of an answer.

§3–208.

(a) (1) Any party may introduce new evidence on judicial review.

(2) If the evidence presented on judicial review is materially different from the evidence presented at the hearing before the Commission, the court shall:

(i) unless all parties stipulate in writing to the contrary, refer a transcript of the new evidence to the Commission; and

(ii) stay the proceedings for a period of time that the court considers appropriate.

(b) (1) On receipt of a transcript in accordance with subsection (a)(2)(i) of this section, the Commission may modify its findings based on the new evidence.

(2) Within a period of time that the court specifies, the Commission shall file with the court a report of any action taken based on the new evidence.

(c) (1) If, on referral, the Commission rescinds the action on which the appeal was taken, the court shall dismiss the appeal and any modification made by the Commission shall stand in place of the original action.

(2) If, on referral, the Commission does not rescind or modify the original action, the court shall render judgment on the original order.

(d) Further evidence may not be introduced in the reviewing court after referral to the Commission under this section unless the court finds that serious injustice would otherwise result from the failure to allow the introduction of the new evidence.

(e) The provisions of § 3-110(c) of this title relating to incriminating testimony apply to proceedings for judicial review under this subtitle.

§3–209.

A party aggrieved by a final judgment in any proceeding under this subtitle may appeal the judgment to the Appellate Court of Maryland in the manner provided by law for appeals in other civil cases.

§4–101.

In this title, "just and reasonable rate" means a rate that:

(1) does not violate any provision of this article;

(2) fully considers and is consistent with the public good; and

(3) except for rates of a common carrier, will result in an operating income to the public service company that yields, after reasonable deduction for depreciation and other necessary and proper expenses and reserves, a reasonable return on the fair value of the public service company's property used and useful in providing service to the public.

§4–102.

(a) This section does not apply to small rural electric cooperatives.

(b) The Commission shall have the power to set a just and reasonable rate of a public service company, as a maximum rate, minimum rate, or both.

(c) (1) The Commission shall issue an order, including the rate set under subsection (b) of this section.

(2) The Commission shall serve the order on each affected public service company.

§4–103.

(a) In setting just and reasonable rates under this title, the Commission may not discourage the use of employee stock ownership plans by public service companies by denying to the public service companies the full benefits of investment tax credits provided in connection with these plans by the Internal Revenue Code.

(b) A public service company may not charge off lobbying expenses against its ratepayers.

§4–201.

In accordance with the provisions of this article, a public service company shall charge just and reasonable rates for the regulated services that it renders.

§4–202.

(a) Except as provided in subsection (c)(1) of this section and subject to subsection (c)(2) of this section, a public service company shall file with the Commission a tariff schedule of its rates and charges for its regulated services and for standard offer service as provided in § 7–505(b)(8) of this article.

(b) As ordered by the Commission, a public service company shall:

(1) plainly print the tariff schedule of its rates and charges for its regulated services;

(2) make available the tariff schedules for public inspection; and

(3) post the tariff schedules to make the tariff schedules readily accessible to and convenient for inspection by the public.

(c) (1) (i) A telephone company that is regulated using an alternative form of regulation under § 4–301 of this title for baskets of services is not required to file with the Commission a tariff schedule of its rates and charges for its regulated retail services that are included in Basket 4 "Discretionary Services" and Basket 5 "Competitive Services".

(ii) A telephone company that is not regulated using an alternative form of regulation under § 4–301 of this title for baskets of services is not required to file with the Commission a tariff schedule of its rates and charges for its regulated retail services that, as determined by the Commission, are similar to the services included in Basket 4 "Discretionary Services" and Basket 5 "Competitive Services".

(2) Notwithstanding any other law, except as provided in paragraph (1) of this subsection, if the Commission finds after notice and hearing that it is in the public interest, the Commission may allow a telephone company that has 20,000 or fewer subscribers to provide a regulated service without requiring the telephone company to file a tariff schedule of its rates and charges for the regulated service.

(3) The Commission may issue orders or adopt regulations that the Commission determines necessary to regulate a service in which a telephone company is not required to file a tariff schedule of its rates and charges under this subsection.

§4–203.

(a) Unless otherwise ordered by the Commission, a public service company may not establish a new rate or change in rate unless the public service company:

(1) provides to the Commission notice of the new rate or change in rate at least 30 days before the new rate is established or current rate is changed; and

(2) publishes the new rate or change in rate in accordance with § 4–202 of this subtitle during the entire 30 day notice period in new schedules or plainly indicated amendments to existing schedules.

(b) The public service company shall plainly set forth in the notice and publication:

(1) the changes that it proposes to the rate schedules currently in force; and

(2) the effective date of the changes.

(c) (1) The technical staff of the Commission may assist a water company or a sewage disposal company in establishing a proposed just and reasonable rate.

(2) In assisting a water company or a sewage disposal company under this subsection, the technical staff may seek information from the water company or the sewage disposal company.

(3) The Commission shall restrict the availability of staff–assisted rate cases authorized under this subsection to water companies or sewage disposal companies whose gross annual revenues, for the most recent calendar year for which data are available, are below an amount determined by the Commission, not to exceed $1,000,000.

(4) The Commission shall adopt regulations to establish formal rules for staff–assisted rate cases authorized under this subsection.

§4–204.

(a) (1) The Commission may suspend, effective immediately and without formal proceedings, any new rate or change in rate proposed by a public service company.

(2) Unless suspended by the Commission, and subject to § 4-203 of this subtitle, a new rate or change in rate proposed by a public service company takes effect on the date specified in the rate application.

(3) The Commission shall furnish to the public service company proposing a rate a written statement of the reasons for the suspension.

(b) (1) The Commission promptly shall institute proceedings to consider whether the suspended rate is a just and reasonable rate.

(2) The Commission may:

(i) suspend the rate initially for not more than 180 days after the proposed effective date; and

(ii) extend the suspension for up to an additional 90 days if the filing is for an alternative form of ratemaking for a public service company.

(3) Subject to subsection (c) of this section, after the suspension or extension under paragraph (2) of this subsection expires, if the Commission has not entered a final order, the new rate or change in rate proposed by the public service company takes effect.

(c) (1) If a proposed new rate or rate increase takes effect before the Commission enters a final order in the proceedings, if practicable, the Commission may order the public service company that proposes the rate to keep a detailed and accurate account of:

(i) all amounts received under the new rate or rate increase; and

(ii) the persons on whose behalf the amounts are paid.

(2) After the proceedings conclude, the Commission may require the public service company to refund with interest, to each person listed under paragraph (1)(ii) of this subsection, the part of the new rate or rate increase that the Commission finds unjustified.

(3) If a refund is not practicable, the public service company shall charge off and amortize the difference between the operating revenues under the rate charged and the operating revenues that would have been obtained from the same volume of business from the final set rate, through a temporary rate decrease for the period that the Commission sets.

§4–205.

(a) The Commission may set a temporary rate for any public service company that is higher or lower than the rate previously in effect.

(b) The Commission may set a temporary rate after hearing only if the Commission finds that:

(1) pending a final rate proceeding, the rate in force is not a just and reasonable rate; and

(2) the temporary rate is necessary in the interest of justice in view of the length of time that must elapse before a final order may be entered.

(c) If the order involves a temporary rate increase, and refund to the consumer is practicable, the public service company shall post a bond, with security and in an amount that the Commission approves, payable to the State and conditioned to ensure prompt refund with interest to each consumer of each amount received by the public service company from the consumer above the final rates that the Commission sets.

(d) Any temporary change in rate shall equal the amount found by the Commission to be higher or lower than a just and reasonable rate.

(e) (1) The temporary change in rate under subsection (d) of this section shall remain in effect for an initial period of not more than 9 months.

(2) The Commission may order the temporary change to be extended by not more than 3 months.

(f) (1) If the final rate set is higher than the rate set in the order for a temporary rate, the public service company may amortize and recover over a period that the Commission sets, through a temporary increase over the final rate set, the difference between the operating revenue obtained under the order for a temporary rate and the operating revenue that would have been obtained from the same volume of business from the final rate set.

(2) If the rate in the order for a temporary rate is higher than the final rate set, the Commission shall order a refund, charge off, or amortization under § 4-204(c) of this subtitle.

§4–206.

(a) At any time, the Commission may investigate and determine the fair value of the property of a public service company used and useful in providing service to the public.

(b) (1) The valuation:

(i) is not final until the Commission:

1. serves on the public service company a copy of the order setting the proposed valuation and the method used to set the valuation; and

2. allows a reasonable time in which to file a protest; and

(ii) is final if a protest is not filed within the time specified in the order.

(2) If a timely protest is filed, the Commission shall enter a final valuation by order after hearing.

(c) All final valuations are prima facie evidence of value in proceedings under this division.

§4–206.1.

(a) This section applies only to a public service company that is an investor–owned gas company or investor–owned electric company.

(b) In a base rate proceeding to set just and reasonable rates under this title, each public service company shall demonstrate to the Commission the reasonableness of the use of internal labor in comparison to contractual labor.

(c) To demonstrate reasonableness of the use of labor as required under subsection (b) of this section, a public service company shall provide to the Commission, at a minimum:

(1) a comparison of the costs of internal labor and contractual labor;

(2) a demonstration of the reasonableness of the decision to use contractual labor;

(3) a justification for the use of contractual labor when used instead of internal labor, including a cost–based rationale; and

(4) any other information that the Commission requires.

§4–207.

(a) This section applies only to:

(1) an electric cooperative; and

(2) a gas company, electric company, telephone company, water company, or sewage disposal company whose gross annual revenues, for the most recent calendar year for which data are available, are less than 3% of the total gross annual revenues of all public service companies in the State during the same calendar year.

(b) (1) When the Commission suspends a proposed new rate for an electric cooperative or a company subject to this section that is based on the existing authorized fair rate of return or, for an electric cooperative, the existing debt service coverage ratio, the Commission promptly shall institute proceedings to determine if additional revenues are required to allow the electric cooperative or the company to earn the existing debt service coverage ratio or the existing fair rate of return authorized in the previous base rate proceeding.

(2) The Commission shall:

(i) serve each of the parties to the previous base rate proceeding of that electric cooperative or that company with a copy of the suspension order;

(ii) order the electric cooperative or the company to publish a display advertisement about the proposal in newspapers of general circulation in its service area; and

(iii) order the electric cooperative to conduct a public hearing in accordance with the requirements of § 3–104 of this article.

(3) Proceedings under this section shall:

(i) account for revenues, expenses, and rate base in the same manner that the Commission employed in determining a just and reasonable rate in the previous base rate proceeding; and

(ii) exclude consideration of any increase in the rate of return, or, for an electric cooperative, the debt service coverage ratio, any change in rate structure, or any change in an accounting approach to any item pertaining to revenues, expenses, or rate base inconsistent with that used by the Commission in determining a just and reasonable rate in the previous base rate proceeding for the electric cooperative or the company.

(4) In proceedings under this section, the Commission may use a more recent past test period than that used in the previous base rate proceeding for the electric cooperative or the company.

(5) The Commission shall enter a final order as to the revenue requirement determined under this section within 90 days after the proposed new rate is filed.

(6) The final order shall:

(i) authorize a new rate distributing any change in the revenue requirement proportionally among the ratepayers without change in the rate structure; and

(ii) state whether further proceedings shall be held.

(7) If, in the final order, the Commission decides to conduct further proceedings under subsection (c) of this section, the final order may provide for refund, consistent with the provisions of § 4–204(c) of this subtitle, of any difference between the new rate authorized under this subsection and the rate the Commission sets under subsection (c) of this section.

(c) (1) If the Commission decides to conduct further proceedings under subsection (b) of this section, the Commission, after a hearing, may:

(i) modify the rate structure;

(ii) lower the authorized fair rate of return or, for an electric cooperative, lower the debt service coverage ratio; or

(iii) modify the accounting approach to an item that pertains to revenues, expenses, or rate base.

(2) The Commission shall take any action under this subsection within 120 days after entry of a final order under subsection (b) of this section.

(d) (1) This section does not apply to a proposed new rate that is filed:

(i) less than 1 year after a previously proposed new rate under this section is filed; or

(ii) with a request for temporary rates under § 4–205 of this subtitle.

(2) (i) An electric cooperative or a company may not file a proposed new rate under this subtitle if any proposed new rate filed by the electric cooperative or the company under this section is pending, or a new rate filed by the electric cooperative or the company under this section has been in effect fewer than 90 days.

(ii) This paragraph does not preclude an electric cooperative or a company from filing a proposed new rate for a new service if the proposal does not affect the authorized rate of return or, for an electric cooperative, the debt service coverage ratio.

(3) Unless the Commission provides otherwise, this section does not apply to a proposed new rate that is filed more than 3 years after the Commission enters a final order authorizing the existing fair rate of return or, for an electric cooperative, the existing debt service coverage ratio in the previous base rate proceeding.

§4–208.

(a) This section applies to a public service company that:

(1) provides gas or electric services;

(2) is subject to a cost allocation manual approved by the Commission;

(3) (i) engages in an unregulated business activity; or

(ii) has a subsidiary that engages in an unregulated business activity; and

(4) does not meet the standards for rate proceedings provided for under § 4-207 of this subtitle.

(b) (1) A public service company subject to this section shall file an independent audit opinion prepared by an entity approved by the Commission on the earliest of:

(i) once every 2 years; or

(ii) when the public service company:

1. files a request for a change in its base rate under this subtitle; or

2. has a major change in its corporate organization or structure as determined by the Commission.

(2) The independent auditor shall:

(i) examine:

1. compliance by the public service company with policies and procedures of the public service company's cost allocation manual;

2. proper allocation of costs to an affiliate of the public service company in accordance with the manual; and

3. appropriate charging of costs and transactions relative to the manual to the public service company and its affiliates; and

(ii) identify adjustments that should be made:

1. to the manual consistent with prior Commission rulings; and

2. to the public service company or to an affiliate of the public service company relative to the examination of the allocation of costs and charging of costs and transactions.

(c) The cost of the independent audit opinion filed under subsection (b) of this section shall be borne by the stockholders of the public service company.

§4–209.

(a) With respect to the net capital costs associated with the relocation underground of utility lines and facilities in connection with projects required by § 8–401 of the Land Use Article, the Commission shall:

(1) set the amount of the monthly surcharge required to support the costs and determine which customers of the applicable utility are subject to the surcharge;

(2) include in the rate base the related net capital costs; or

(3) adopt another method to apportion the costs appropriately.

(b) A utility may not be required to pay more than 50% of the net capital costs of a relocation project.

(c) A county or municipal corporation may appropriate money for a relocation project from appropriate federal, State, and local funds it receives for this purpose.

§4–210.

(a) (1) In this section the following words have the meanings indicated.

(2) "Customer" means a retail natural gas customer.

(3) "Eligible infrastructure replacement" means a replacement or an improvement in an existing infrastructure of a gas company that:

(i) is made on or after June 1, 2013;

(ii) is designed to improve public safety or infrastructure reliability;

(iii) does not increase the revenue of a gas company by connecting an improvement directly to new customers;

(iv) reduces or has the potential to reduce greenhouse gas emissions through a reduction in natural gas system leaks; and

(v) is not included in the current rate base of the gas company as determined in the gas company's most recent base rate proceeding.

(4) "Plan" means a plan that a gas company files under subsection (e) of this section.

(5) "Project" means an eligible infrastructure replacement project proposed by a gas company in a plan filed under this section.

(b) It is the intent of the General Assembly that the purpose of this section is to allow for the appropriate acceleration of gas infrastructure improvements in the State when:

(1) necessary to ensure safety and improve reliability; and

(2) consistent with State policy.

(c) Nothing in this section may be construed to alter a gas company's obligation under this division to make improvements to a gas system that are necessary to ensure the safety of the gas system.

(d) This section does not apply to a gas cooperative.

(e) (1) A gas company may file with the Commission:

(i) a plan to invest in eligible infrastructure replacement projects; and

(ii) in accordance with paragraph (5) of this subsection, a cost–recovery schedule associated with the plan that includes a fixed annual surcharge on customer bills to recover reasonable and prudent costs of proposed eligible infrastructure replacement projects.

(2) A plan under this subsection shall include:

(i) a description of each eligible infrastructure replacement project, including the project's expected useful life;

(ii) a time line for the completion of each eligible project;

(iii) the estimated cost of each project;

(iv) a description of customer benefits under the plan;

(v) a demonstration that the gas company has selected and given priority to projects based on risk to the public and cost–effectiveness;

(vi) an analysis that compares the costs of proposed replacement projects with alternatives to replacement, including leak detection and repair;

(vii) a plan for notifying customers affected by proposed projects at least 6 months in advance of construction; and

(viii) any other information the Commission considers necessary to evaluate the plan.

(3) A customer notification plan required under paragraph (2) of this subsection shall provide for:

(i) an initial notification of construction in a manner determined by the Commission;

(ii) at least two subsequent notifications of construction in a manner determined by the Commission; and

(iii) the communicating of:

1. a complete and accurate description of project activities; and

2. any other information the Commission considers necessary to evaluate the plan.

(4) (i) When calculating the estimated cost of a project under paragraph (2) of this subsection, a gas company shall include:

1. the pretax rate of return on the gas company's investment in the project;

2. depreciation associated with the project, based on new assets less retired plant; and

3. property taxes associated with the project, based on new assets less retired plant.

(ii) The estimated project costs described in subparagraph (i) of this paragraph are collectible at the same time the eligible infrastructure replacement is made.

(iii) The pretax rate of return under subparagraph (i)1 of this paragraph shall:

1. be calculated using the gas company's capital structure and weighted average cost of capital as the Commission approved in the gas company's most recent base rate proceeding; and

2. include an adjustment for bad debt expenses as the Commission approved in the gas company's most recent base rate proceeding.

(5) For a plan filed under this section:

(i) the cost–recovery schedule shall include a fixed annual surcharge that:

1. may not exceed $2 each month on each residential customer account; and

2. for each nonresidential customer account, may not be less than the fixed annual surcharge applicable to a residential customer account, but shall be capped under item (ii) of this paragraph; and

(ii) to create a surcharge cap for all customer classes, costs shall be allocated to nonresidential and residential customers consistent with the proportions of total distribution revenues that those classes bear in accordance with the most recent base rate proceeding for the gas company.

(6) For a gas company to recover costs associated with eligible infrastructure replacement projects, a plan shall demonstrate:

(i) customer benefits; and

(ii) that the gas company has:

1. analyzed available cost–effective options to defer, reduce, or remove the need to replace, construct, or upgrade components of the gas company's distribution infrastructure, including leak detection and repair; and

2. met any other requirements established by the Commission when setting rates under this title.

(7) A plan under this subsection shall be filed separately from a base rate proceeding.

(8) In a base rate proceeding after approval of a plan, the Commission shall, in establishing a gas company's revenue requirements, take into account any benefits the gas company realized as a result of a surcharge approved under the plan.

(9) Any adjustment for return on equity based on an approved plan only shall be considered and determined in a subsequently filed base rate case.

(f) (1) Within 180 days after a gas company files a plan, the Commission:

(i) may hold a public hearing on the plan; and

(ii) shall take a final action to approve or deny the plan.

(2) Within 150 days after a gas company files an amendment to an approved plan, the Commission shall take final action to approve or deny the amendment.

(3) The Commission may approve a plan if it finds that the investments and estimated costs of eligible infrastructure replacement projects are:

(i) reasonable and prudent;

(ii) designed to improve public safety or infrastructure reliability over the short term and long term; and

(iii) required to improve the safety of the gas system after consideration of alternatives to replacement.

(4) (i) The Commission shall approve the cost–recovery schedule associated with the plan at the same time that it approves the plan.

(ii) Costs recovered under the schedule approved in subparagraph (i) of this paragraph may relate only to the projects within the plan approved by the Commission.

(5) The Commission may not consider a revenue requirement or rate–making issue that is not related to the plan when reviewing a plan for approval or denial unless the plan is filed in conjunction with a base rate case.

(g) (1) Subject to paragraph (2) of this subsection, if the Commission does not take final action on a plan within the time period required under subsection (f) of this section, the gas company may implement the plan.

(2) If a gas company implements a plan that the Commission has not approved, the gas company shall refund to customers any amount of the surcharge that the Commission later determines is not reasonable or prudent, including interest.

(h) The Commission may authorize a gas company to use a mechanism to promptly recover reasonable and prudent costs of investments for eligible infrastructure replacement projects that:

(1) are part of a plan approved under this section or implemented under subsection (g) of this section; and

(2) accelerate gas infrastructure improvements in the State.

(i) (1) (i) A surcharge under this section shall be in effect for 5 years from the date of initial implementation of an approved plan.

(ii) 1. Before the end of the 5–year period, the gas company shall file a base rate case application.

2. In a base rate proceeding filed under subsubparagraph 1 of this subparagraph, if a plan approved by the Commission remains in effect:

A. eligible infrastructure project costs included in base rates in accordance with a final Commission order on the base rate case shall be removed from a surcharge; and

B. the surcharge mechanism shall continue for eligible future infrastructure project costs that are not included in the base rate case.

(2) (i) If the actual cost of a plan is less than the amount collected under a surcharge, the gas company shall refund to customers the difference on customer bills, including interest.

(ii) If the actual cost of a plan is more than the amount collected under the surcharge and the Commission determines that the higher costs were reasonably and prudently incurred, the Commission shall authorize the gas company to increase the surcharge to recover the difference, subject to the rate limit under subsection (e)(5) of this section.

(j) Each year a gas company shall file with the Commission a reconciliation to adjust the amount of a surcharge to account for any difference between the actual cost of a plan and the actual amount recovered under the surcharge.

(k) If, after approving a surcharge in a plan, the Commission establishes new base rates for the gas company that include costs on which the surcharge is based, the gas company shall file a revised rate schedule with the Commission that subtracts those costs from the surcharge.

(l) (1) The Commission may review a previously approved plan.

(2) If the Commission determines that an investment of a project or cost of a project no longer meets the requirements of subsection (f)(3) of this section, the Commission may:

(i) reduce future base rates or surcharges; or

(ii) alter or rescind approval of that part of the plan.

§4–211.

(a) (1) Except as provided in paragraph (3) of this subsection, when determining necessary and proper expenses while setting a just and reasonable rate for a gas company, the Commission may include all costs reasonably incurred by the gas company for performing environmental remediation of real property in response to a State or federal law, regulation, or order if:

(i) the remediation relates to the contamination of the real property; and

(ii) the real property is or was used to provide manufactured or natural gas service directly or indirectly to the gas company's customers or the gas company's predecessors.

(2) Environmental remediation costs incurred by a gas company may be included in the gas company's necessary and proper expenses regardless of whether:

(i) the real property is currently used and useful in providing gas service; or

(ii) the gas company owns the real property when the rate is set.

(3) Environmental remediation costs incurred by a gas company may not be included in the gas company's necessary and proper expenses if a court of competent jurisdiction determines that the proximate cause of the environmental

contamination is a result of the gas company's failure to comply with a State or federal law, regulation, or order in effect when the contamination occurred.

(b) The Commission shall balance the interests of a gas company with those of the gas company's customers when setting the recovery schedule for the environmental remediation costs incurred by the gas company.

(c) (1) In this subsection, "financial benefit" includes any monetary gain on the conveyance of real property, or any portion of real property that was subject to environmental remediation, to a third party and any other financial benefit of the property or portion of the property that subsequently inures to the gas company, including income from rentals and tax credits, deductions, or other financial benefits, less any environmental remediation costs relating to the property that the gas company was not allowed to recover from the gas company's customers.

(2) If a gas company is allowed to recover environmental remediation costs under this section, any financial benefit accruing to the gas company as a result of the remediation of real property shall be credited to the gas company's customers in a manner determined by the Commission.

§4–212.

(a) (1) In this section the following words have the meanings indicated.

(2) "Contract capacity" means the amount of monthly peak load requirements:

(i) that is mutually agreed to by an electric company and a large load customer for each month remaining in a contract term after the load ramp period has ended; and

(ii) for which:

1. the electric company agrees to provide all of the components of retail electric service subject to the terms and conditions in its tariffs; and

2. the large load customer agrees to purchase service at that load level for the stated term of the contract and under the same terms and conditions as those stated in the contract.

(3) "Large load customer" means a commercial or industrial customer for retail electric service that:

(i) has or is projected to have an aggregate monthly demand of at least 100 megawatts; and

(ii) has or is projected to have a load factor of over 80%.

(4) "Load ramp period" means the period of time from commencement of service until a large load customer's billing calculation is based on the full contract capacity.

(b) It is the intent of the General Assembly that residential retail electric customers in the State should not bear the financial risks associated with large load customers interconnecting to the electric system serving the State.

(c) (1) (i) On or before September 1, 2026, each investor–owned electric company and each electric cooperative shall submit to the Commission for approval a specific rate schedule for large load customers that accomplishes the intent of subsection (b) of this section.

(ii) Each municipal electric utility that receives an application for retail electric service from a large load customer shall submit to the Commission for approval a specific rate schedule for large load customers.

(2) (i) Service under a specific rate schedule shall be available to large load customers that will use, within the initial contract term:

1. a monthly maximum demand of more than 100 megawatts at a single location; or

2. an aggregated contract capacity in the electric company's service territory of more than 100 megawatts.

(ii) Except as provided in subparagraph (iii) of this paragraph, large load customers that qualify for a specific rate schedule after the effective date of that schedule:

1. shall take service under the specific rate schedule; and

2. may not be allowed to take service under any other existing schedule.

(iii) A specific rate schedule does not apply to the facility of an existing large load customer that has signed a service agreement before the effective date of the schedule if:

1. the large load customer's existing load does not expand by more than 25 megawatts at that facility under the existing service agreement; or

2. the large load customer does not sign a new service agreement to expand the facility's load by more than 25 megawatts above the contract capacity of the existing service agreement.

(d) In making a determination on whether to approve a specific rate schedule submitted under subsection (c) of this section, the Commission shall consider whether the rate schedule:

(1) requires a large load customer to cover the just and reasonable costs associated with any electric transmission or distribution system buildout required to:

(i) interconnect the large load customer to the electric system serving the State; or

(ii) serve the large load customer;

(2) protects residential retail electric customers from the financial risks associated with large load customers through the use of:

(i) load ramp periods;

(ii) minimum billing demand for electric distribution and transmission service that is a high percentage of a large load customer's contract capacity;

(iii) long–term contractual commitments and exit fees;

(iv) guarantee or collateral requirements; and

(v) penalties and reimbursement requirements for the large load customer if the large load customer delays or cancels a project after the electric company has begun buildout to accommodate the large load customer; and

(3) sufficiently ensures that the allocation of costs to large load customers under the schedule does not result in customers that are not large load customers unreasonably subsidizing the costs of large load customers under the schedule.

(e) Before signing a contract for service under a specific rate schedule submitted under subsection (c) of this section, a large load customer under the schedule is required to:

(1) submit a request for a load study to determine the necessary contract capacity for the large load customer and pay any applicable fees associated with the study;

(2) designate a specific site where the large load customer's project will be constructed and served by the electric company;

(3) own or have the exclusive right to use the land designated in item (2) of this subsection for the project; and

(4) meet any other requirements specified under the rate schedule.

(f) (1) On or before June 1, 2026, the Commission shall adopt regulations to carry out this section.

(2) The regulations shall:

(i) establish minimum notice requirements and deadlines related to load study requests and contract terminations and adjustments;

(ii) if considered necessary by the Commission, specify common forms of acceptable collateral to satisfy the requirements of this section; and

(iii) establish deadlines related to completion of load studies and payment of fees.

§4–213.

(a) This section applies only to a public service company that is an electric company, a gas company, or a combination gas and electric company.

(b) Unless otherwise authorized by law, the Commission may approve the use of a multiyear rate plan for distribution base rates only if the plan:

(1) demonstrates the customer benefits of the investment; and

(2) does not allow for the public service company to file for reconciliation of cost or revenue variances of the approved revenue component used by the Commission to establish just and reasonable rates.

(c) A public service company that files or has filed an application for a multiyear rate plan may not subsequently file for reconciliation of cost or revenue variances of the approved revenue component used by the Commission to establish the multiyear rates unless the filing for reconciliation was made on or before January 1, 2025.

§4–214.

(a) In this section, "nonpipeline alternative" means an investment or activity that defers, reduces, or eliminates the need to construct a new gas pipeline.

(b) Nothing in this section may be construed to restrict an investor–owned gas company's ability to make improvements to its gas system to ensure the safe and reliable operation of the system.

(c) An investor–owned gas company may recover reasonable and prudent costs associated with a planned gas infrastructure investment if the investor–owned gas company demonstrates at a rate setting proceeding:

(1) the customer benefits of the investment;

(2) that the investor–owned gas company analyzed cost–effective options available to defer, reduce, or eliminate the need to replace, upgrade, or construct new components, including an analysis of:

(i) for new investments unrelated to safety, nonpipeline alternatives; and

(ii) leak detection and repair; and

(3) the estimated risk reduction associated with a safety–related investment, if applicable.

§4–301.

(a) Notwithstanding § 4-101 of this title or any other law to the contrary, the Commission may regulate a telephone company through alternative forms of regulation.

(b) The Commission may adopt an alternative form of regulation under this section if the Commission finds, after notice and hearing, that the alternative form of regulation:

(1) protects consumers by, at a minimum:

(i) producing affordable and reasonably priced basic local exchange service, as defined by the Commission; and

(ii) ensuring the quality, availability, and reliability of telecommunications services throughout the State;

(2) encourages the development of competition; and

(3) is in the public interest.

(c) An alternative form of regulation may include:

(1) price regulation;

(2) revenue regulation;

(3) ranges of authorized return;

(4) rate of return;

(5) categories of services; or

(6) price indexing.

§4–302.

(a) (1) In this subsection, "operating ratio" means the relationship of common carrier expenses to common carrier operating revenues.

(2) In considering proper revenue under subsection (b)(3) of this section, the Commission shall determine a fair and equitable operating ratio.

(b) In setting a just and reasonable rate for common carriers, and classifications, regulations, and practices relating to common carriers, the Commission shall consider, among other factors:

(1) the inherent advantages of transportation by common carriers;

(2) the need, in the public interest, of adequate and efficient transportation services by common carriers at the lowest cost consistent with furnishing these services; and

(3) the need of revenues sufficient to enable common carriers to provide these services under honest, economical, and efficient management.

§4–303.

(a) The Commission shall establish pilotage fees and charges for pilotage services to vessels at a just and reasonable rate.

(b) The Commission shall give notice and hold a public hearing on each rate proposal as provided in this article.

(c) In determining a just and reasonable rate, the Commission shall consider:

(1) the draft, dimensions, and tonnage of the vessel piloted;

(2) the difficulty and inconvenience of the particular service and the time and skill required to render the service;

(3) the time required to render pilotage service at other United States ports and the fees and charges for the service;

(4) the public interest in maintaining efficient and reliable pilotage service; and

(5) other factors relevant to the determination of a just and reasonable rate.

(d) A pilot may not demand or receive a different compensation for providing pilotage service than the rate set by the Commission under this section.

(e) The Commission shall impose an assessment on the Association of Maryland Pilots based on assessment guidelines established for public service companies under § 2-110 of this article. The assessment imposed under this subsection may not be less than $25,000.

(f) All pilotage fees and charges provided by applicable law shall remain in effect until changed by the Commission.

§4–303.1.

(a) The Commission shall establish fees and charges for a licensed docking master to provide docking services in the Ports of Maryland at a just and reasonable rate.

(b) The Commission shall give notice and hold a public hearing on each rate proposal as provided in this article.

(c) In determining a just and reasonable rate, the Commission shall consider:

(1) the draft, dimensions, and tonnage of the vessel;

(2) the difficulty and inconvenience of the particular service and the time and skill required to render the service;

(3) the time required to render docking service at other United States ports and the fees and charges for the service;

(4) the public interest in maintaining efficient and reliable docking service; and

(5) other factors relevant to the determination of a just and reasonable rate.

(d) A docking master licensed under Title 5.5 of the Business Occupations and Professions Article may not demand or receive a different compensation for providing docking services than the rate set by the Commission under this section.

(e) The Commission shall impose an assessment on the association based on assessment guidelines established for public service companies under § 2-110 of this article.

(f) All fees and charges provided by applicable law shall remain in effect until changed by the Commission.

§4–304.

(a) In this section, "jurisdiction" means a county or municipal corporation.

(b) This section does not apply if rates for sewage disposal service are specified in a contract between the jurisdictions that supply and receive the sewage disposal service.

(c) The Commission shall set only the rates for sewage disposal service that one jurisdiction supplies within the taxable limits of another jurisdiction:

(1) on written application by the jurisdiction that receives the service; and

(2) in the same way as rates are set for sewage disposal companies.

§4–305.

(a) In this section, "jurisdiction" means a county, sanitary district, or municipal corporation.

(b) This section does not affect §§ 35-138, 35-140, 35-141, and 35-145 of the Code of Public Local Laws of Baltimore County.

(c) The Commission shall set only the rates for water that one jurisdiction supplies within another jurisdiction:

(1) on written application by the jurisdiction that receives the water; and

(2) in the same way as rates are set for water companies.

§4–306.

(a) This section applies to any municipal corporation in Talbot County that supplies water to an area outside the boundaries of the municipal corporation.

(b) On written application, the Commission may grant the applicant a certificate of authority to establish a service area outside of its boundaries and to supply that service area with water.

§4–307.

(a) In this section, "rate consolidation" means the use of the same or similar rates or tariff schedules of rates for customers of the same class for two or more water or sewage disposal systems even if the systems are not physically interconnected.

(b) After notice to customers and holding a public hearing and an evidentiary hearing, the Commission may authorize a rate consolidation of two or more water or sewage disposal systems if:

(1) the water or sewage disposal systems have common ownership; and

(2) the rate consolidation is in the public interest.

§4–308.

(a) On or before January 1, 2023, the Commission shall by regulation or order establish an administrative process to approve supply offers for electricity or gas for households in the State that receive energy assistance through a program administered by the Office of Home Energy Programs.

(b) (1) Beginning July 1, 2023, unless the Commission has approved the supply offer in accordance with subsection (a) of this section, a third–party retail supplier may not offer to:

(i) provide electricity or gas to households in the State that have received energy assistance during the previous fiscal year;

(ii) renew a contract to provide electricity or gas to households in the State that are enrolled in an energy assistance program; or

(iii) charge a termination fee to households in the State that have received energy assistance during the previous fiscal year.

(2) An approved supply offer from a third–party retail supplier shall include a commitment, for the entirety of the term of the supply offer, to charging at or below the standard offer service rate or gas commodity rate for customers receiving energy assistance.

(3) If a third–party retail supplier's offer is not approved by the Commission, the third–party retail supplier may not:

(i) receive funds from an energy program administered by the Office of Home Energy Programs; or

(ii) charge a customer receiving assistance from an energy program administered by the Office of Home Energy Programs.

(c) The Office of Home Energy Programs may allocate funding toward supplier charges as part of arrearage assistance for contracts that preceded a customer's application for energy assistance from the Office of Home Energy Programs.

(d) (1) On or before September 1 each year, the Commission shall publish a report on the Commission's website that includes:

(i) the names and the total number of suppliers that applied for approval to sell to energy assistance households;

(ii) the names and the total number of suppliers that were approved under subsection (a) of this section;

(iii) the total number of suppliers that were rejected, if any;

(iv) the total number of energy assistance households that were signed up with a third–party supplier, as reported by the supplier;

(v) the total number of submitted supplier enrollments that were denied because the supplier was not approved to serve energy assistance households, as reported by the utility; and

(vi) the total number of self–identified energy assistance households that filed complaints about their third–party supplier.

(2) The Commission shall send a copy of the report to the Office of People's Counsel, the Office of Home Energy Programs, and, subject to § 2–1257 of the State Government Article, the Senate Finance Committee and the House Economic Matters Committee.

§4–309.

(a) (1) In this section the following words have the meanings indicated.

(2) "Eligible limited–income customer" means a residential customer of a utility company with annual income that:

(i) 1. is at or below 175% of the federal poverty level; or

2. for a customer at least 67 years of age, is at or below 200% of the federal poverty level; or

(ii) meets a broader designation approved by the Commission.

(3) "Limited–income mechanism" or "mechanism" means a process approved by the Commission under this section to benefit an eligible limited–income customer of a utility company.

(4) "Payment plan" means an agreement between an eligible limited–income customer and a utility company to pay an arrearage balance over a specific period of time to avoid disconnection of a utility service.

(5) (i) "Utility company" means an electric company, a gas and electric company, or a gas company.

(ii) "Utility company" does not include a small rural electric cooperative.

(b) The General Assembly finds and declares that the societal benefits of a well–constructed limited–income mechanism to benefit Maryland's eligible limited–income customers are in the public interest.

(c) (1) Subject to the approval of the Commission, a utility company shall adopt a limited–income mechanism to benefit an eligible limited–income customer.

(2) Notwithstanding § 4–503(b) of this title, the mechanism may take the form of a program, tariff provision, credit, rate, rider, or other means to assist an eligible limited–income customer to afford a utility service.

(3) A municipal electric utility may adopt a limited–income mechanism subject to the approval of the Commission in the same manner as a utility company in accordance with this section.

(d) (1) A utility company that proposes a limited–income mechanism for Commission approval under subsection (c) of this section shall include the proposal in:

(i) a separate application for approval of the mechanism; or

(ii) only with the prior approval of the Commission, an application for a base rate proceeding, including an alternative rate proceeding, or any other proceeding to alter the utility company's base rates under the authority of the Commission.

(2) A proposal submitted under this section shall allocate the prudently incurred costs of the limited–income mechanism across rate classes.

(3) The proposal shall include:

(i) a detailed description of the proposed mechanism;

(ii) the proposed method for allocating the mechanism's costs across customer classes;

(iii) the rationale supporting the utility company's proposal for a mechanism to benefit the eligible limited–income customers in the utility company's service territory;

(iv) a time frame and process for the Commission to review the effectiveness of the mechanism after implementation; and

(v) any other information the Commission considers necessary or useful to evaluate the proposal.

(e) In evaluating a limited–income mechanism, the Commission shall consider:

(1) the degree to which the mechanism promotes affordability of electricity or natural gas for limited–income customers;

(2) the public interest in allocating the costs of the mechanism between the utility company's shareholders and rate payers;

(3) the impact on rates, utility operating costs, customer arrearages, customer disconnections, uncollectible costs, and successful completion of payment plans;

(4) the ability of a limited–income customer to continue to receive benefits when relocating within the same service territory;

(5) coordination of benefits under the mechanism with any other public or private assistance that may be available to the customer;

(6) a minimum level of support or assistance structure to provide equitable availability of limited–income assistance across the State; and

(7) any other information the Commission considers appropriate.

(f) If an approved limited–income mechanism requires that the Office of Home Energy Programs must certify an eligible limited–income customer's qualifications to participate in a limited–income mechanism, the Office shall certify an eligible limited–income customer's qualifications before the customer may participate in the mechanism.

(g) An eligible limited–income customer who participates in a mechanism under this section may also be eligible for other assistance programs offered in the State, including those offered by a utility company or the Office of Home Energy

Programs, the Department of Housing and Community Development, or any other public or private source.

§4–401.

As it considers necessary, and in accordance with the requirements of § 4-402 of this subtitle, the Commission may allow a gas company or electric company to establish a sliding scale to adjust costs of its fuel, purchased power, or purchased gas.

§4–402.

(a) (1) This section applies to:

(i) electric fuel rate adjustment clauses;

(ii) purchased power adjustment clauses; and

(iii) purchased gas adjustment clauses.

(2) This section does not apply to a small rural electric cooperative.

(b) A gas company or electric company that directly passes on to its customers changes in fuel costs, costs of purchased power, or costs of purchased gas shall verify and justify the adjusted costs to the Commission each month.

(c) The Commission shall order a company to charge off and amortize, by means of a temporary decrease of rates, any charge the Commission finds is unjustified because:

(1) the company failed to show that the charges were based solely on increased costs of fuel, purchased power, or purchased gas;

(2) the company failed to follow competitive practices in procuring and purchasing fuel, power, or gas; or

(3) the company failed to show that its practices in procuring and purchasing fuel were reasonable.

(d) At least once every 12 months, the Commission shall conduct a public evidentiary hearing on any changes in costs that a company directly passes on to its customers under this section.

§4–501.

(a) In its utility operations, a public service company may not:

(1) sell, render services, or furnish a commodity until the public service company files and publishes its rate schedules in accordance with § 4–202 of this title; or

(2) demand or collect:

(i) compensation that differs from compensation specified in its rate schedules that are in force at the time of the demand or collection; or

(ii) a charge that violates this division.

(b) A person may not assist, allow, or attempt to assist or allow the actions prohibited under this section by any means, including false billing, false classification, false weighing, or false report of weight, even if a public service company or its personnel consents to or connives with the prohibited action.

§4–502.

In an action by a public service company to collect a charge, the public service company may not recover any amount if, in the transaction that is the subject of the action, the public service company demanded a rate greater than that lawful under this division when the charge was made.

§4–503.

(a) This section does not apply to service rendered or commodities furnished:

(1) to the officers, employees, pensioners, and immediate family members of the officers, employees, and pensioners of a public service company;

(2) to the United States, the State, or a local government;

(3) to provide relief in cases of general epidemic, pestilence, flood, or other similar calamity;

(4) in the case of common carriers, to transport:

(i) personnel of another common carrier that reciprocates for personnel of the transporting common carrier;

(ii) hospital patients;

(iii) indigent, destitute, and homeless individuals;

(iv) persons exclusively engaged in charitable work;

(v) residents of federal or State veterans homes, including those about to enter a home or those returning from a home;

(vi) railway mail service employees and baggage agents;

(vii) post office, customs, and immigration inspectors;

(viii) newspaper vendors;

(ix) property for exhibition carried to or from fairs and expositions;

(x) employees of sleeping car companies, express companies, telegraph companies, and telephone companies doing business along the line of the common carrier;

(xi) persons and property incident to or connected with contracts for construction, operation, or maintenance of the plant of the transportation company, to the extent provided in the contracts;

(xii) individuals injured in accidents and physicians, nurses, or other necessary caretakers attending the injured individuals in transit;

(xiii) children under the age of 5 years for no charge;

(xiv) children under 12 years for half fare; or

(xv) persons at free or reduced rates that are otherwise authorized by law;

(5) in the case of common carriers, for the issuance of mileage, excursion, or commuter tickets;

(6) to free steamboat excursion transportation from May through August of each year, from Baltimore City to any place in the State, in exchange for services rendered in advertising the excursion business;

(7) to obtain essential data by a method that uses a limited sample of customers, in connection with a rate structure study conducted under formal proceedings before the Commission;

(8) to telephone lifeline service provided to eligible subscribers under § 8–201 of this article; or

(9) to electricity or gas service provided to eligible limited–income customers through an approved limited–income mechanism under § 4–308 of this title.

(b) For any service rendered or commodity furnished, a public service company may not directly or indirectly, by any means, including special rates, rebates, drawbacks, or refunds:

(1) charge, demand, or receive from a person compensation that is greater or less than from any other person under substantially similar circumstances;

(2) extend a privilege or facility to a person, except those privileges and facilities that are extended uniformly to all persons under substantially similar circumstances;

(3) discriminate against a person, locality, or particular class of service; or

(4) give undue or unreasonable preference to or cause undue or unreasonable prejudice to a person, locality, or particular class of service.

§4–504.

(a) This section applies only to a public service company that is an investor–owned electric company, gas company, or combination gas and electric company.

(b) A public service company may not recover through rates any costs associated with:

(1) membership, dues, sponsorships, or contributions to an industry trade association, group, or related entity exempt from taxation under § 501(c)(6) of the Internal Revenue Code; or

(2) the acquisition, use, or allocation of costs associated with a private plane that is owned or leased by the public service company or its holding company.

§5–101.

(a) After providing notice and an opportunity for interested parties to be heard, the Commission may adopt regulations that prescribe standards for safe, adequate, reasonable, and proper service for any class of public service company or gas master meter operator.

(b) The standards adopted under subsection (a) of this section shall best promote, in the opinion of the Commission, the security or convenience of:

(1) the public;

(2) those employed in furnishing services; and

(3) those to whom services are rendered.

(c) The Commission may:

(1) enforce the standards adopted under this section; and

(2) by order, as the Commission considers necessary, require changes and additions in the service of any public service company or gas master meter operator, including:

(i) repairs or improvements in plant;

(ii) increase in motive power; and

(iii) change in schedule or manner of operations.

§5–102.

(a) The Commission may:

(1) as it considers reasonable and proper, order a common carrier to issue mileage, excursion, school commuter, passenger commuter, or joint interchangeable mile tickets for all or part of the common carrier's route in the State; and

(2) require any two or more common carriers, whose lines form a continuous line of transportation or whose lines could form a continuous line of transportation by means of switch connection, to:

(i) establish through routes and joint rates;

(ii) provide for the manner of securing the through routes or paying the joint rates; and

(iii) apportion the through routes and joint rates between the affected common carriers.

(b) This section:

(1) is subject to § 7-208(f) of the Transportation Article; and

(2) does not limit § 5-101 of this subtitle.

§5–103.

(a) (1) The Commission may require a public service company to continue any service that the public service company renders to the public under any franchise, right, or permit, after any applicable expiration date.

(2) Unless authorized by the Commission, a public service company may not discontinue or abandon a service under a franchise, right, or permit.

(3) The Commission may authorize a public service company to discontinue or abandon a service under a franchise, right, or permit if the Commission finds that the present or future public convenience and necessity allows the discontinuance or abandonment.

(4) Denial of authorization to discontinue or abandon a service under a franchise, right, or permit does not preclude subsequent reapplication.

(b) (1) Whenever the Commission authorizes the abandonment or discontinuance of a franchise, right, or permit, as a whole or in part, that involves any service to or from a suburban community, the Commission:

(i) shall consider all applications to acquire the franchise, right, or permit to render the service; and

(ii) shall grant the application to the best qualified applicant.

(2) An abandoned or discontinued right that extends between mid-city and suburban termini shall continue to extend between the mid-city and suburban termini if the abandoned or discontinued right:

(i) as acquired by the abandoning or discontinuing public service company or its predecessor, extended from mid-city to suburban termini; or

(ii) was operated between the mid-city and suburban termini during most of its existence or for an aggregate of at least 15 years.

§5–104.

(a) The Commission may authorize the acts described in §§ 5-202, 5-203, and 5-205 of this title and § 6-101(a) of this article if it finds that the authorization is consistent with the public convenience and necessity.

(b) Authority that the Commission grants under §§ 5-202 and 5-203 of this title does not:

(1) revive a lapsed franchise;

(2) validate an invalid franchise;

(3) enlarge or add to the powers and privileges of a franchise; or

(4) waive a forfeiture.

§5–105.

The Commission shall require each gas company, electric company, and telephone company to exempt the dwelling units of subscribing individuals who are at least 60 years old from any cash deposit requirement, if the subscriber does not owe any past-due bill to that public service company.

§5–106.

Before a license or permit may be issued under this article to an employer to engage in an activity in which the employer may employ a covered employee, as defined in § 9-101 of the Labor and Employment Article, the employer shall file with the issuing authority:

(1) a certificate of compliance with the Maryland Workers' Compensation Act; or

(2) the number of a workers' compensation insurance policy or binder.

§5–201.

(a) A public service company may not exercise a franchise granted by law except to the extent authorized by the Commission.

(b) A public service company may not exercise a franchise unless it files with the Commission:

(1) a certified copy of its charter; and

(2) a statement by its president and secretary, signed under oath, that the appropriate local authorities have provided the required consent for the exercise of the franchise.

§5–202.

Without prior authorization of the Commission, a public service company may not:

(1) assign, lease, or transfer a franchise or a right under a franchise;

(2) enter into any agreement or contract that materially affects a franchise or a right under a franchise; or

(3) abandon or discontinue the exercise of a franchise or a right as a whole or in part.

§5–203.

(a) This section does not apply to a merger of or transfer of stock or other ownership interest between:

(1) a telephone company; and

(2) another entity with a greater than 50% ownership in common with the telephone company.

(b) Subject to § 6–101 of this article, without prior authorization of the Commission, a public service company may not purchase, acquire, take, or hold any part of the capital stock of another public service company that operates in Maryland.

(c) (1) This subsection applies to corporations that operate in Maryland.

(2) Except as provided in paragraph (5) of this subsection, without prior authorization of the Commission, a public service company may not:

(i) assume or guarantee an obligation or liability with respect to stocks, bonds, securities, notes, or other evidence of indebtedness that is payable as a whole or in part to any person more than 12 months after the date of issuance; or

(ii) issue stocks, bonds, securities, notes, or other evidence of indebtedness payable as a whole or in part more than 12 months after the date of issuance.

(3) Stocks, bonds, securities, notes, or other evidence of indebtedness described under paragraph (2)(ii) of this subsection shall be issued in accordance with §§ 6–102 and 6–103 of this article.

(4) The Commission shall take action on an application for authorization under this section within a reasonable time after receipt.

(5) Prior authorization of the Commission is not required for an assumption or guarantee under paragraph (2)(i) of this subsection or an issuance under paragraph (2)(ii) of this subsection made by a gas company, electric company, or telephone company whose gross annual revenues, for the most recent calendar year for which data are available, are less than 3% of the total gross annual revenues of all public service companies in the State during the same calendar year, if the gas company, electric company, or telephone company:

(i) provides prior written notice to the Commission of the transaction; and

(ii) obtains approval of the transaction from the entity in another state that regulates the gas company, electric company, or telephone company.

§5–204.

(a) This section does not apply to:

(1) a municipal corporation, sanitary district, or other unit of government;

(2) an individual, for the construction of a water system or sewage disposal system for the individual's personal or private use; or

(3) a group of individuals for their joint personal or private use, unless the Commission finds that the joint use is for the purpose of generally serving a proposed new housing development.

(b) Without the prior authorization of the Commission, a person may not construct a water system or sewage disposal system for public use.

(c) (1) The Commission may authorize the construction of a water system or sewage disposal system for public use only on a finding that the construction of the water system or sewage disposal system is in the public interest.

(2) In determining whether the proposed construction of the water system or sewage disposal system is in the public interest, the Commission shall consider:

(i) the financing plans for the proposed construction; and

(ii) other pertinent facts and circumstances.

(d) An applicant for authorization to construct a water system or sewage disposal system:

(1) shall fully disclose to the Commission the financing plans for the construction; and

(2) has the burden of proof to satisfy the Commission that the construction is in the public interest.

(e) (1) After a hearing, the Commission may revoke an authorization to construct a water system or sewage disposal system if the Commission finds that the revocation is in the public interest.

(2) An order of revocation may be appealed in accordance with § 3-204 of this article.

(3) Subject to action of the Commission under § 3-205 of this article, the filing of an appeal does not stay an order of revocation.

(4) After the Commission issues an order of revocation, the water system or sewage disposal system may not be operated until the revocation is repealed by:

(i) the Commission; or

(ii) the final disposition of an appeal from the order of revocation.

§5–205.

(a) Without prior authorization of the Commission, a person may not transfer a controlling interest in a water company or sewage disposal company to another person.

(b) The Commission may authorize the transfer of a controlling interest in a water company or sewage disposal company if the Commission finds that the transfer is consistent with the public convenience and necessity.

§5–301.

(a) Except as otherwise provided by law, this section does not apply to a requirement or violation of:

(1) Subtitle 4 of this title;

(2) Title 7, Subtitle 1 of this article;

(3) Title 8, Subtitles 1 and 3 of this article; or

(4) Title 9, Subtitle 3 of this article.

(b) A public service company:

(1) shall comply fully with the requirements of this division; and

(2) may not violate any provision of this division.

§5–302.

(a) Except as provided in subsection (b) of this section, a public service company shall file with the Commission:

(1) an annual report for the preceding calendar year; and

(2) special reports, information, contracts, records, and copies as required by the Commission.

(b) Unless otherwise directed by the Commission, a public service company is not required to comply with subsection (a) of this section if the public service company is:

(1) a common carrier; or

(2) a telephone company whose rates are not regulated by the Commission under Title 4 of this article.

(c) The Commission may require a public service company that files documents under subsection (a) of this section to file the documents under oath.

§5–303.

A public service company shall furnish equipment, services, and facilities that are safe, adequate, just, reasonable, economical, and efficient, considering the conservation of natural resources and the quality of the environment.

§5–304.

(a) (1) A public service company shall notify the Commission of any accident involving the public service company that results in:

(i) personal injury requiring hospitalization;

(ii) property damage exceeding $50,000; or

(iii) loss of life.

(2) The public service company shall notify the Commission within 30 days after the day the accident occurs or within a period that the Commission prescribes.

(b) The notice:

(1) shall be in a form that the Commission prescribes; and

(2) may not be admissible in evidence, or used for any purpose against the public service company that provides the notice, in an action for damages arising out of any matter that is reported in the notice.

§5–305.

(a) This section applies to a project by an investor–owned gas company, electric company, or combination gas and electric company involving the construction, reconstruction, installation, demolition, restoration, or alteration of any underground gas or electric infrastructure of the company, and any related traffic control activities.

(b) An investor–owned gas company, electric company, or combination gas and electric company shall require a contractor or subcontractor on a project described in subsection (a) of this section to pay its employees not less than the prevailing wage rate determined solely by the Commissioner of Labor and Industry in a process substantially similar to the process established under Title 17, Subtitle 2 of the State Finance and Procurement Article.

(c) In accordance with Title 3, Subtitle 5 of the Labor and Employment Article, the Maryland Department of Labor shall enforce the requirement under subsection (b) of this section for contractors and subcontractors to pay employees not less than the prevailing wage rate determined solely by the Commissioner of Labor and Industry.

(d) A contract entered into after March 1, 2024, by an investor–owned gas company, electric company, or combination gas and electric company that is for the construction, reconstruction, installation, demolition, restoration, or alteration of any underground gas or electric infrastructure, and any related traffic control activities, includes a contract that has been executed, amended, or altered after March 1, 2024.

§5–306.

(a) In this section, "zero–trust" means a cybersecurity approach:

(1) focused on cybersecurity resource protection; and

(2) based on the premise that trust is never granted implicitly but must be continually evaluated.

(b) This section does not apply to a public service company that is:

(1) a common carrier; or

(2) a telephone company.

(c) A public service company shall:

(1) adopt and implement cybersecurity standards that are equal to or exceed standards adopted by the Commission;

(2) adopt a zero–trust cybersecurity approach for on–premises services and cloud–based services;

(3) establish minimum security standards for each operational technology and information technology device based on the level of security risk for each device, including security risks associated with supply chains; and

(4) (i) on or before July 1, 2024, and on or before July 1 every other year thereafter, engage a third party to conduct an assessment of operational technology and information technology devices based on:

1. the Cybersecurity and Infrastructure Security Agency's Cross–Sector Cybersecurity Performance Goals; or

2. a more stringent standard that is based on the National Institute of Standards and Technology security frameworks; and

(ii) submit to the Commission certification of the public service company's compliance with standards used in the assessments under item (i) of this item.

(d) (1) Each public service company shall report, in accordance with the process established under paragraph (2) of this subsection, a cybersecurity incident, including an attack on a system being used by the public service company, to the State Security Operations Center in the Department of Information Technology.

(2) The State Chief Information Security Officer, in consultation with the Commission, shall establish a process for a public service company to report cybersecurity incidents under paragraph (1) of this subsection, including establishing:

(i) the criteria for determining the circumstances under which a cybersecurity incident must be reported;

(ii) the manner in which a cybersecurity incident must be reported; and

(iii) the time period within which a cybersecurity incident must be reported.

(3) The State Security Operations Center shall immediately notify appropriate State and local agencies of a cybersecurity incident reported under this subsection.

§5–401.

Except as otherwise provided in this subtitle or by other law, the provisions of this subtitle are not subject to the jurisdiction of the Commission.

§5–402.

(a) This subtitle does not authorize a corporation to take or use property unless just compensation, as agreed on with the owner or awarded by a jury, has been paid or tendered to the parties entitled to compensation or paid into court.

(b) This subtitle does not authorize the location of a public road on private property without the consent of the owner or the decision of the county commissioners or county council after notice and an opportunity to be heard as required by law for opening or altering public roads.

§5–403.

(a) This section applies to a domestic or foreign corporation that is or may become engaged in the business of transmitting or supplying natural gas, artificial gas, or a mixture of natural and artificial gases.

(b) Subject to subsection (c) of this section, a corporation described in subsection (a) of this section may acquire by condemnation, in accordance with Title 12 of the Real Property Article, rights-of-way or easements necessary to lay, construct, modify, repair, maintain, operate, and remove pipelines and appurtenances to pipelines for transmitting and supplying gas.

(c) (1) Except as provided in paragraph (2) of this subsection, a corporation may not condemn rights-of-way or easements under subsection (b) of this section unless the corporation:

(i) 1. transmits gas directly to local consumers in the State along the corporation's proposed rights-of-way; and

2. offers to contract with those local consumers to supply them directly with gas on terms and conditions subject to the approval of the Commission; and

(ii) has certified to the State Department of Assessments and Taxation the name and address of a resident agent of the corporation in the State, service of process on whom shall bind the corporation until the appointment of a substitute is certified to the State Department of Assessments and Taxation.

(2) Paragraph (1) of this subsection does not affect the right of a corporation that was transmitting natural gas, artificial gas, or a mixture of natural and artificial gases for public use through one or more pipelines in the State on or before June 1, 1931, to condemn for public use necessary rights-of-way or easements for:

(i) a pipeline or appurtenances to a pipeline in use on or before June 1, 1931;

(ii) any incidental relocations of a pipeline or appurtenances to a pipeline in use on or before June 1, 1931; or

(iii) any additional pipelines or appurtenances to pipelines along and on the same routes or along and on any incidental relocations of a pipeline or appurtenances to a pipeline in use on or before June 1, 1931.

(d) This section does not affect the application of any provision of this article that applies generally or specifically to a corporation that is or may become engaged in the business of transmitting or supplying natural gas, artificial gas, or a mixture of natural and artificial gases.

§5–404.

(a) (1) In this section the following words have the meanings indicated.

(2) "Oil pipeline corporation" means a corporation of this State, any other state, or the United States, that is:

(i) engaged in the business of transporting refined petroleum products by pipeline as a common carrier public service corporation; and

(ii) subject to the jurisdiction of either the United States Department of Energy (Federal Energy Regulatory Commission) or the Commission.

(3) (i) "Property" means real property in fee simple or any lesser right, interest, or estate that is necessary for the intrastate or interstate purposes of the oil pipeline corporation or both.

(ii) "Property" includes:

1. privately owned property;

2. property owned by a public body; and

3. property devoted to public use if an acquisition under this section does not materially interfere with that public use.

(b) An oil pipeline corporation that is operating an oil pipeline that existed in the State on or before July 1, 1978, may acquire by condemnation, in accordance with Title 12 of the Real Property Article, any property necessary to:

(1) operate those existing oil pipelines and appurtenances; or

(2) construct and operate additional oil pipelines and appurtenances along, on, adjacent to, or incidentally deviating not more than 50 feet from the routes followed by the corporation's existing rights–of–way.

(c) The right to acquire property under this section may be exercised only in Anne Arundel, Baltimore, Carroll, Cecil, Harford, Howard, Montgomery, and Prince George's counties and Baltimore City.

(d) (1) An oil pipeline corporation shall restore to its original condition any property used for construction or maintenance of a pipeline.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, the construction or maintenance of the pipeline and the restoration of the property shall be completed within 7 days after the start of the construction or maintenance on that parcel of property.

(ii) If weather conditions or the nature of the terrain make completion within 7 days unfeasible, the oil pipeline corporation shall complete the construction or maintenance of the pipeline and the restoration of the property within 30 days.

(e) (1) The right to acquire property under this section may not be exercised unless the oil pipeline corporation, whether or not it is otherwise subject to the jurisdiction of the Commission, first obtains an order from the Commission finding the acquisition to be in the public interest.

(2) Before the Commission makes a finding and issues an order under this subsection, the Commission shall hold a public hearing.

(3) The oil pipeline corporation shall give written notice of the public hearing to all affected property owners.

(f) This section does not affect any other law of the State that applies generally or specifically to oil pipeline corporations.

§5–405.

(a) A railroad company or its authorized agent may agree with the owner to purchase, use, occupy, or divert the owner's land, earth, gravel, stone, timber, streams, materials, or improvements that the company wants for the proper construction or repair of the railroad company's roads or works.

(b) The company may acquire the property by condemnation under Title 12 of the Real Property Article if:

(1) the company cannot agree with the owner of the property; or

(2) an owner:

(i) is a minor, is adjudged to be mentally incompetent, or is under any other legal disability to contract; or

(ii) is absent from the county in which the property is located when the company wants the property.

§5–406.

(a) (1) A railroad company may change the location or grade of any portion of its road if the company finds the change is necessary for any reasonable cause, including to avoid:

(i) inconvenience to public travel;

(ii) dangerous or difficult curves or grades; or

(iii) unsafe or unsubstantial grounds or foundations.

(2) A change of location or grade under this section shall follow the general route of the existing road.

(3) A railroad company may enter on and take land and make surveys necessary to make the change in location or grade in accordance with Title 12 of the Real Property Article.

(b) (1) A railroad company is liable to the owner of the land on which the road was constructed for any damages caused by a change in location or grade of the road.

(2) The amount of damages determined shall be paid to the owner or deposited into court.

(3) An owner shall claim damages within:

(i) 30 days after actual notice of the intended change has been given to the owner, if the owner resides on the premises; or

(ii) 60 days after publication of notice in a newspaper in general circulation in the county, if the owner is a nonresident.

(c) If a railroad company condemns land under this section, the condemnation is binding on the company, unless the company chooses to abandon the location within 30 days after making the condemnation.

§5–407.

(a) A railroad company and the municipal corporation, public officer, or public authority that owns or has control of any road, street, alley, or other public way or ground necessary to locate any part of the railroad may agree on the manner, terms, and conditions allowing the railroad company to use or occupy the road, street, alley, or other public way or ground.

(b) If the parties are unable to agree and the railroad company needs to use or occupy the road, street, alley, or other public way or ground, the railroad company may acquire the property by condemnation in accordance with Title 12 of the Real Property Article.

(c) (1) A railroad company that lays track on any public street, road, alley, or other public way or ground is responsible for any damage done by the location of the track to private property on or near the public way or ground.

(2) The owner of the private property shall bring a civil action for damages under this subsection within 2 years after the completion of the track.

(d) A railroad company may not pass through Baltimore City without the consent of the Mayor and City Council.

§5–408.

The power of a railroad company to condemn land and other property under this subtitle includes the power to condemn, for railroad purposes, private crossings or ways and land and other property to provide substitute outlets.

§5–409.

Sections 5-405, 5-406, and 5-407 of this subtitle apply to all railroads operated by electricity, cable, or other improved motive power, whether the property proposed to be condemned is located in a county or Baltimore City, where streets and alleys have not been opened and occupied as city streets.

§5–410.

(a) This section applies to:

(1) a telegraph company that has its principal office in the State;

(2) a telephone company that has its principal office in the State;

(3) a corporation formed as a Class 13 corporation under Article 23, § 28 of the Code of 1904; and

(4) a telephone company that owns lines and provides local exchange or interexchange service in the State with the approval of the Commission.

(b) A company described in subsection (a) of this section has the same power granted to telegraph and telephone companies by §§ 8-103, 8-104, 8-105, and 8-106(a) of this article and may:

(1) construct and lay lines underground or above ground on any route for which it is authorized to construct lines as a whole or in part; and

(2) except as provided in subsection (d) of this section, acquire by condemnation, in accordance with Title 12 of the Real Property Article, any property or right that the company considers necessary for its purposes.

(c) (1) Before using either the surface of or the ground beneath the streets or highways of Baltimore City, the company shall obtain the consent of the Mayor and City Council.

(2) This subsection does not apply to corporations that were in practical operation on June 1, 1910, and that had laid or constructed lines, pipes, mains, or other structures in Baltimore City, unless the corporations use new and additional streets and highways in Baltimore City for their lines, pipes, mains, or other structures.

(d) This section does not authorize a telephone company described in subsection (a)(4) of this section that, as of September 30, 1993, did not have the power

of condemnation granted to a telegraph company under §§ 8-103, 8-104, 8-105, and 8-106(a) of this article, to acquire property for communications towers or buildings.

§5–411.

A water company may acquire by condemnation, in accordance with Title 12 of the Real Property Article, any land or water rights that the company is authorized to acquire to lay pipes or construct its work, if:

(1) the company cannot agree with the owner of the land or water rights; or

(2) an owner:

(i) is a minor, is adjudged to be mentally incompetent, or is under any other legal disability to contract; or

(ii) when the company needs the land or water rights, is absent from the county or city in which the property is located.

§5–501.

(a) (1) In this section the following words have the meanings indicated.

(2) "Account holder" means the individual in whose name a utility account is established.

(3) "Utility" means an electric company, an electricity supplier, a gas company, a gas supplier, a sewage disposal company, a water company, or any combination of these companies.

(b) If an account holder's surviving spouse presents to a utility the account holder's death certificate and their marriage certificate or a State or federal tax return filed jointly by the account holder and the surviving spouse in the immediately preceding year, the utility shall, without requiring any further information, other than updated contact information, or imposing any fee or penalty:

(1) temporarily keep the account open for a period of not less than 6 months and, during that time, treat the surviving spouse as a joint holder of the account; or

(2) transfer the account to the surviving spouse.

(c) Notwithstanding subsection (b)(1) of this section, a utility may:

(1) in accordance with any other applicable law, impose a fee or penalty or terminate an account for nonpayment; or

(2) at the request of the surviving spouse, close the account.

§5–502.

(a) (1) In this section the following words have the meanings indicated.

(2) "Abuse" has the meaning stated in § 4–501(b) of the Family Law Article.

(3) "Account holder" means an individual in whose name a utility account is maintained individually or jointly with other individuals.

(4) "Offender" means an individual who commits an act of abuse.

(5) "Qualified third party" means:

(i) a licensed physician or psychologist authorized to practice under the Health Occupations Article;

(ii) a social worker or caseworker of any public or private health or social services agency or provider; or

(iii) an advocate from a domestic violence or sexual assault prevention or assistance program.

(6) "Report by a qualified third party" means a report based on information received by a qualified third party while acting in a professional capacity that:

(i) indicates that the account holder is seeking assistance as a result of being a victim of abuse; and

(ii) includes the following information:

1. the name of the account holder;

2. the date, time, location, and a brief description of the incident;

3. the name and physical description of the alleged offender, if known;

4. the name and address of the employer of the qualified third party;

5. if the qualified third party is required to be licensed, the licensing entity and license number of the qualified third party;

6. the signature of the qualified third party, under seal of a notary public; and

7. the acknowledgment and signature of the account holder under penalty of perjury.

(7) "Utility" means an electric company, an electricity supplier, a gas company, a gas supplier, a sewage disposal company, a water company, or any combination of these companies.

(b) (1) Subject to subsections (c) and (d) of this section, if an account holder is a victim of abuse, the account holder may terminate, and the utility shall allow for the termination of, the account holder's future liability under a utility contract if the account holder provides the utility with written notice by first–class mail or hand delivery of the account holder's request for termination of the account holder's future liability under the contract.

(2) The notice required under paragraph (1) of this subsection shall include:

(i) a copy of an enforceable final protective order issued for the benefit of the account holder under § 4–506 of the Family Law Article;

(ii) a copy of an enforceable final peace order, for which the underlying act was an act of abuse, issued for the benefit of the account holder under § 3–1505 of the Courts Article; or

(iii) a copy of a report by a qualified third party if:

1. the name and physical description of the alleged offender are redacted; and

2. the report was signed by the qualified third party within the 60 days immediately preceding the date the notice is provided under paragraph (1) of this subsection.

(c) An account holder who terminates a utility contract under subsection (b) of this section is responsible for utility charges only up to and including the billing cycle during which the written notice required under subsection (b) of this section is submitted.

(d) If an account holder terminates a utility contract under subsection (b) of this section, the utility shall allow the account holder to open a new utility account for a new premises notwithstanding an account balance or arrearage at the premises described in the written notice under subsection (b) of this section.

§6–101.

(a) (1) This subsection:

(i) applies only to corporations that operate in Maryland; and

(ii) does not apply to a transaction in which the capital stock of a telephone company is acquired by another entity with a greater than 50% ownership in common with the telephone company.

(2) Except as provided in paragraph (4) of this subsection, a public service company shall obtain authorization from the Commission before the public service company:

(i) assumes or guarantees an obligation or liability with respect to stocks, bonds, securities, notes, or other evidence of indebtedness of any person that is payable wholly or partly more than 12 months after the date of the assumption or guarantee;

(ii) issues stocks, bonds, securities, notes, or other evidence of indebtedness that is payable wholly or partly more than 12 months after the date issued; or

(iii) lends money to an affiliate, as defined in § 7–501 of this article, at rates or on terms that are significantly more favorable to the affiliate than the rates or terms that are otherwise commercially available to the affiliate.

(3) An issuance under paragraph (2)(ii) of this subsection shall conform to §§ 6–102 and 6–103 of this subtitle.

(4) Prior authorization of the Commission is not required for an assumption or guarantee under paragraph (2)(i) of this subsection or an issuance under paragraph (2)(ii) of this subsection made by a gas company, electric company,

or telephone company whose gross annual revenues, for the most recent calendar year for which data are available, are less than 3% of the total gross annual revenues of all public service companies in the State during the same calendar year, if the gas company, electric company, or telephone company:

(i) provides prior written notice to the Commission of the transaction; and

(ii) obtains approval of the transaction from the entity in another state that regulates the gas company, electric company, or telephone company.

(b) (1) Subject to the requirements of subsection (c) of this section, the Commission may authorize an act described under subsection (a)(2) of this section if the Commission finds that the act is consistent with the public convenience and necessity.

(2) Authorization under this subsection does not:

(i) revive a lapsed franchise, validate an invalid franchise, or add to the powers and privileges in a franchise; or

(ii) waive a forfeiture.

(c) (1) This subsection does not apply to the formation of a holding company by a public service company in a corporate reorganization that involves an exchange of stock of the public service company for stock in the holding company.

(2) In this subsection, a company controlling a public service company is deemed a public service company of the same class as the controlled public service company.

(3) Without prior authorization of the Commission, a public service company may not take, hold, or acquire any part of the capital stock of a public service company that:

(i) operates in Maryland; and

(ii) is of the same class as the acquiring company.

(4) (i) Except as provided in subparagraph (ii) of this paragraph, a stock corporation may not take, hold, or acquire more than 10% of the total capital stock of a public service company that operates in Maryland unless:

1. the stock is acquired as collateral security; and

2. the Commission approves the acquisition.

(ii) The Commission may authorize a public service company of the same class to take, hold, or acquire more than 10% of the total capital stock of a public service company that operates in Maryland.

(5) A public service company may not be a party to a violation of this subsection.

(6) Notwithstanding paragraph (2) of this subsection, § 6–105 of this subtitle shall apply, and the provisions of this subsection do not apply, to the acquisition, ownership, or disposition of any capital stock or voting securities of a company that controls, directly or indirectly, a gas and electric company.

(7) Notwithstanding any other provision of this subsection, the Commission may authorize, in accordance with § 6–105 of this subtitle, the taking, holding, or acquiring of all or any part of the capital stock of a gas and electric company that operates in the State by a stock corporation or a public service company that is not of the same class as the gas and electric company.

§6–102.

(a) This section applies only to public service companies that operate in Maryland.

(b) The Commission shall authorize a public service company to issue stocks, bonds, securities, notes, or other evidence of indebtedness, payable wholly or partly more than 12 months after the date of issuance, if the Commission finds that the issuance is reasonably required for the public service company to:

(1) acquire property;

(2) construct, complete, extend, or improve its facilities;

(3) discharge or lawfully refund its obligations;

(4) maintain or improve service; or

(5) reimburse money, not secured by or obtained from the issuance, that is expended for a purpose described in item (1), (2), or (3) of this subsection within 5 years before the filing of an application with the Commission for the reimbursement.

(c) (1) The Commission may authorize a public service company to issue stocks, bonds, securities, notes, or other evidence of indebtedness, payable wholly or partly more than 12 months after the date of issuance, for the public service company to:

(i) conform the aggregate capitalization of the public service company to the value of its property; or

(ii) subject to paragraph (2) of this subsection, pay a dividend in shares of the public service company's own stock.

(2) An order of the Commission authorizing an issuance under paragraph (1)(ii) of this subsection shall state that:

(i) concurrently with the issuance, the public service company shall transfer from surplus to capital an amount that the Commission determines under paragraph (3) of this subsection; and

(ii) a sum equal to the amount to be transferred has been expended from income or other money in the treasury of the public service company not secured by, obtained from, or reimbursed by the issuance of stocks, bonds, notes, or other evidence of indebtedness of the public service company for a purpose described in subsection (b)(1), (2), or (3) of this section.

(3) The amount that the Commission determines under paragraph (2)(i) of this subsection may not be less than:

(i) the aggregate par value of the stock whose issuance is to be authorized; or

(ii) if the stock has no par value, the capital value of the stock.

(d) (1) An authorization by the Commission under subsection (b) or (c) of this section shall be by order.

(2) The order shall specify:

(i) the amount of the issuance authorized; and

(ii) the purpose under subsection (b) or (c) of this section for which the issuance is reasonably required.

(e) (1) Notwithstanding subsections (b), (c), (d), and (g) of this section, the Commission may approve the issuance of stocks, bonds, securities, notes, or other evidence of indebtedness in connection with the organization of a new public service company by the purchaser of the franchise or property of a public service company sold under judicial proceedings, mortgage, or deed of trust.

(2) An issuance that the Commission approves under this subsection shall be in the amount that the Commission considers necessary fully to protect the rights and equities of the holders of the securities of the predecessor company.

(f) A public service company's application for authorization under this section of long–term debt in excess of $1,000,000 shall include a copy of any restrictive covenant attached to the debt.

(g) (1) Except as provided in paragraph (2) of this subsection, this section does not prevent a public service company from issuing, without the prior consent of the Commission, notes that are:

(i) for proper corporate purposes;

(ii) not otherwise in violation of the law; and

(iii) payable at periods totaling not more than 12 months after the date of issuance.

(2) Except as authorized under subsection (b) or (c) of this section, notes issued under paragraph (1) of this subsection may not be refunded directly or indirectly, wholly or partly, by an evidence of indebtedness running for more than 12 months.

§6–103.

(a) This section applies only to public service companies that operate in Maryland.

(b) (1) A public service company may not:

(i) capitalize or issue bonds against or as lien on a contract for consolidation, merger, or lease; or

(ii) except as provided in paragraph (2) of this subsection, capitalize a franchise or the right to own a franchise.

(2) A public service company may capitalize a franchise or right to own a franchise in an amount not exceeding the amount, exclusive of any tax or annual charge, actually paid to the State or a political subdivision as consideration for the grant of the franchise or right.

(c) The stated capital, as determined under Title 2, Subtitle 3 of the Corporations and Associations Article, of a public service company formed by a merger or consolidation of corporations may not exceed, solely by virtue of the merger or consolidation, the stated capital of the corporations merged or consolidated plus any additional sum paid in cash.

(d) (1) This subsection does not apply to the capitalization of a franchise to be a public service company.

(2) Notwithstanding any other provision of this article, the Commission may approve the capitalization of tangible and intangible property of:

(i) a newly chartered public service company; or

(ii) a public service company organized or reorganized by the purchaser of the franchise and property of its predecessor at a sale under judicial proceedings, mortgage, or deed of trust.

(3) Capitalization under paragraph (2) of this subsection shall be in the amount and form that the Commission considers reasonably necessary to enable the public service company to obtain the capital necessary to establish itself as a going concern.

§6–104.

Any contract, assignment, transfer, or agreement for transfer or purchase of stock in violation of the provisions of this article is void.

§6–105.

(a) In this section, "affiliate" has the meaning stated in § 7–501 of this article.

(b) (1) The General Assembly finds that:

(i) existing legislation requires the approval by the Commission of the acquisition by one public service company of another public service company's stocks and obligations, but does not require the Commission's approval of

these acquisitions by persons not engaged in the public utility business in the State; and

(ii) an attempt by a person not engaged in the public utility business in the State to acquire the power to exercise any substantial influence over the policies and actions of a public service company that provides electricity or gas in the State could result in harm to the customers of the public service company, including the degradation of utility services, higher rates, weakened financial structure, and diminution of utility assets.

(2) The General Assembly declares that it is the policy of the State to regulate acquisitions by persons that are not engaged in the public utility business in the State of the power to exercise any substantial influence over the policies and actions of a public service company that provides electricity or gas in the State in order to prevent unnecessary and unwarranted harm to the customers of the public service company.

(c) This section applies to the acquisition of an electric company, gas and electric company, or a gas company that operates in Maryland.

(d) (1) A gas and electric company, at the same time as a filing by the company or within 10 days after receipt by the company, shall provide the Commission with a copy of any document regarding the acquisition of voting securities of the gas and electric company or any company that owns or controls the gas and electric company, filed or received by the company, that is filed with:

(i) the Securities and Exchange Commission;

(ii) the Federal Energy Regulatory Commission;

(iii) the Nuclear Regulatory Commission;

(iv) the Department of Justice;

(v) the Federal Trade Commission; or

(vi) any successor agency.

(2) The Commission shall provide the gas and electric company with the same confidentiality and other protections provided by the federal agency with which the filing was made.

(e) (1) Without prior authorization from the Commission, a person may not acquire, directly or indirectly, the power to exercise any substantial influence over

the policies and actions of an electric company, gas and electric company, or gas company, if the person would become an affiliate of the electric company, gas and electric company, or gas company as a result of the acquisition.

(2) For the purposes of this subsection, a person may not be considered to have acquired, directly or indirectly, the power to exercise any substantial influence over the policies and actions of a gas and electric company if the person:

(i) after any acquisition of voting interests of a company that owns or controls a gas and electric company, directly or indirectly, owns, controls, or has the right to vote, or direct the voting of, not more than 20% of the outstanding voting interests of a company that owns or controls a gas and electric company; and

(ii) does not have the right to designate more than 20% of the board of directors or other governing body of a company that owns or controls a gas and electric company.

(3) Paragraph (2) of this subsection may not be construed to apply to the acquisition of any voting interests of a gas and electric company.

(4) If a person that acquires voting securities of a company that owns or controls a gas and electric company after the acquisition actually exercises substantial influence over the policies and actions of a gas and electric company, the Commission may order compliance with, and take any actions authorized by, other provisions of this article with respect to the gas and electric company.

(f) An application for authorization under subsection (e) of this section must include detailed information regarding:

(1) the applicant's identity and financial ability;

(2) the background of the key personnel associated with the applicant;

(3) the source and amounts of funds or other consideration to be used in the acquisition;

(4) the applicant's compliance with federal law in carrying out the acquisition;

(5) whether the applicant or the key personnel associated with the applicant have violated any State or federal statutes regulating the activities of public service companies;

(6) all documents relating to the transaction giving rise to the application;

(7) the applicant's experience in operating public service companies providing electricity;

(8) the applicant's plan for operating the public service company;

(9) how the acquisition will serve the customers of the public service company in the public interest, convenience, and necessity; and

(10) any other information that the Commission may specify by regulation or order.

(g) (1) The Commission promptly shall:

(i) examine and investigate each application received under this section; and

(ii) undertake any proceedings necessary or convenient to review the application in accordance with Title 3 of this article and issue an order concerning the acquisition.

(2) The Commission shall consider the following factors in considering an acquisition under this section:

(i) the potential impact of the acquisition on rates and charges paid by customers and on the services and conditions of operation of the public service company;

(ii) the potential impact of the acquisition on continuing investment needs for the maintenance of utility services, plant, and related infrastructure;

(iii) the proposed capital structure that will result from the acquisition, including allocation of earnings from the public service company;

(iv) the potential effects on employment by the public service company;

(v) the projected allocation of any savings that are expected to the public service company between stockholders and rate payers;

(vi) issues of reliability, quality of service, and quality of customer service;

(vii) the potential impact of the acquisition on community investment;

(viii) affiliate and cross–subsidization issues;

(ix) the use or pledge of utility assets for the benefit of an affiliate;

(x) jurisdictional and choice–of–law issues;

(xi) whether it is necessary to revise the Commission's ring fencing and code of conduct regulations in light of the acquisition; and

(xii) any other issues the Commission considers relevant to the assessment of acquisition in relation to the public interest, convenience, and necessity.

(3) (i) If the Commission finds that the acquisition is consistent with the public interest, convenience, and necessity, including benefits and no harm to consumers, the Commission shall issue an order granting the application.

(ii) The Commission may condition an order authorizing the acquisition on the applicant's satisfactory performance or adherence to specific requirements.

(4) If the Commission does not find that the acquisition is consistent with the public interest, convenience, and necessity, including benefits and no harm to consumers, the Commission shall issue an order denying the application.

(5) The applicant bears the burden of showing that granting the acquisition is consistent with the public interest, convenience, and necessity, including benefits and no harm to consumers.

(6) (i) Except as provided in subparagraph (ii) of this paragraph, the Commission shall issue an order with respect to the application no later than 180 days after the filing of the application for authorization.

(ii) Unless the Commission finds, based on good cause, that the 180–day period should be extended for an additional 45 days, failure of the Commission to issue an order within the 180–day period shall be considered to be an approval of the acquisition by the Commission.

(h) Nothing in this section prohibits dissemination by any party of information concerning the acquisition if the dissemination does not otherwise conflict with federal or State law.

§6–106.

(a) (1) In this section the following words have the meanings indicated.

(2) "Affiliate" has the meaning stated in § 7–501 of this article.

(3) "Investor–owned electric company" means an electric company that is not a municipal electric utility or an electric cooperative.

(b) For purposes of this section, a person is considered to have acquired, directly or indirectly, the power to exercise substantial influence over the policies or actions of an investor–owned electric company if the person:

(1) after any acquisition of voting interests, directly or indirectly owns, controls, or has the right to vote, or direct the voting of, at least 20% of the voting interests of the investor–owned electric company or an entity that owns or controls the investor–owned electric company;

(2) has the right to designate at least 20% of the board of directors or other governing body of the investor–owned electric company or an entity that owns or controls the investor–owned electric company; or

(3) is found by the Commission, directly or indirectly, or through one or more intermediaries, to have substantial influence over the policies or actions of an investor–owned electric company.

(c) A person may not acquire, directly or indirectly, the power to exercise substantial influence over the policies or actions of an investor–owned electric company if the person would become an affiliate of each investor–owned electric company in the State as a result of the acquisition.

(d) The Commission may adopt regulations to implement this section.

§6–201.

(a) In this subtitle the following words have the meanings indicated.

(b) "Control" means the possession, direct or indirect, of the power to direct or cause the direction of the management or policies of a person.

(c) "Financing lease" means a lease that, during the noncancelable lease period:

(1) covers at least 75% of the economic life of the property; or

(2) has terms that assure the lessor of a full recovery of the fair market value that would normally be represented by the lessor's investment of the property at the start of the lease and a reasonable return on the use of the assets invested, subject only to limited risk in the realization of the residual interest in the property and the credit risks generally associated with secured loans.

(d) "Joint venture" means a joint business arrangement between a public service company and another person for mutual benefit, with the understanding that each will share in the profits and losses and have a voice in management.

(e) "Long-term debt" means a debt due at least 1 year after the date of indebtedness.

(f) "Parent" means:

(1) every firm, holding company, or other person that ultimately controls a public service company; or

(2) any intermediary entity that controls a public service company.

(g) "Person" includes an individual, corporation, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(h) "Short-term debt" means a debt due within 1 year after the date of indebtedness.

(i) "SIC code and short title" means a 4-digit industry Standard Industrial Classification code and short title listed in the most recent Standard Industrial Classification manual published by the Office of Management and Budget of the Executive Office of the President.

§6–202.

(a) The Commission may classify the public service companies under its jurisdiction.

(b) Two public service companies are of the same class, if they are both:

(1) common carrier companies;

(2) electric companies;

(3) gas companies;

(4) gas and electric companies;

(5) sewage disposal companies;

(6) telegraph companies;

(7) telephone companies; or

(8) water companies.

§6–203.

The Commission may:

(1) establish a uniform system of records for each class of public service company; and

(2) prescribe the manner and form in which a public service company shall keep records and enter particular items.

§6–204.

The Commission shall prescribe a system, a form of records, and a form of annual report for public service companies that conform as nearly as possible to the system and forms that any corresponding federal regulatory unit requires for public service companies of the same class in interstate commerce.

§6–205.

(a) (1) This subsection does not apply to railroads.

(2) Except as provided in subsection (b) of this section, each public service company shall file with the Commission an annual report containing information on its corporate structure, affiliations of its officers and directors, and debt holdings.

(3) (i) Notwithstanding any specific reporting requirements in this subtitle, the Commission may prescribe the contents of the annual report to be filed by a public service company whose gross annual revenues for the most recent calendar year for which data are available are less than 0.003% of the total gross annual revenues of all public service companies in the State during the same calendar year.

(ii) A small rural electric cooperative described in § 7-502(a) of this article may satisfy the reporting requirement by submitting to the Commission a copy of a report including the required information that the small rural electric cooperative submits to the rural utilities service.

(b) Unless otherwise directed by the Commission, a public service company is not required to comply with subsection (a) of this section if the public service company is:

(1) a common carrier; or

(2) a telephone company whose rates are not regulated by the Commission under Title 4 of this article.

(c) The president, treasurer, or general manager of a public service company shall verify the company's annual report under oath.

(d) The Commission may:

(1) require a public service company to submit reports and information that the Commission reasonably desires;

(2) prescribe the form, contents, and deadlines for the reports and information; and

(3) require amendments or corrections to the reports within a set period.

§6–206.

(a) A public service company shall file its annual report with the Commission within the time the Commission sets after the end of the year that the report covers.

(b) (1) The Commission shall provide each public service company with a blank form of an annual report in time to allow the public service company to comply with subsection (a) of this section.

(2) Unless the Commission notifies a public service company of a proposed change at least 6 months before the start of the year for which an annual report is due, the Commission may not change the form of the annual report in a way that requires the public service company to change the manner or form of its record keeping.

§6–207.

In addition to any other information that the Commission requires, the annual report of a public service company shall state:

(1) the amount and kind of:

(i) authorized capital stock;

(ii) capital stock issued and outstanding;

(iii) authorized bonded indebtedness; and

(iv) bonds and other evidence of indebtedness issued and outstanding;

(2) receipts and expenditures for the year reported;

(3) the amount paid as dividends and interest on bonds or other evidence of indebtedness;

(4) the amount of salary paid to each officer, by name, and the amount paid as wages to employees;

(5) the location of the public service company's plants with a full description of each plant and franchise, stating in detail how each franchise was acquired; and

(6) when applicable:

(i) a monthly compilation of expenditures that were the basis for any fuel rate adjustment; and

(ii) an annual recapitulation of the information required under item (i) of this item.

§6–208.

(a) A public service company shall list in its annual report the name and address, basis of control, and principal business activities of:

(1) the public service company; and

(2) each:

(i) parent;

(ii) subsidiary of the public service company;

(iii) organization the public service company controls; and

(iv) joint venture in excess of $1,000,000 in which the public service company is involved.

(b) (1) For each principal business activity described in subsection (a) of this section, a public service company shall list and describe by SIC code and short title each industry in which the public service company's activities generated, during the reporting year, at least 10% of gross revenues or $5,000,000.

(2) The public service company shall compile the list described under paragraph (1) of this subsection in order of significance relative to the total activities of the public service company, based on the percentage of gross revenues generated within each industry.

(c) For each corporation, partnership, or other business organization in which a public service company owns more than 5% of the outstanding voting securities or other ownership interests, the public service company shall, in its annual report:

(1) list the corporation, partnership, or other business organization; and

(2) indicate the percentage that the public service company owns.

§6–209.

(a) (1) A public service company shall list in its annual report the name and address of:

(i) each principal officer, director, trustee, or partner of the public service company and its parent; and

(ii) each individual exercising functions similar to that of a director, trustee, or partner on behalf of the public service company and its parent.

(2) For each individual described in paragraph (1) of this subsection, the public service company shall list:

(i) the title and position with the public service company and any parent;

(ii) the title and position with any subsidiary of the public service company and any other company, firm, or organization that the public service company controls;

(iii) the principal occupation or business affiliation, if different than that provided in item (i) or (ii) of this paragraph; and

(iv) each affiliation with any other business or financial organization, firm, or partnership doing business with the public service company.

(b) In its annual report, a public service company shall:

(1) list each contract, agreement, or other business arrangement exceeding an aggregate value of $1,000,000 between the public service company and any business or financial organization, firm, or partnership listed under subsection (a)(2)(iii) and (iv) of this section;

(2) except for compensation related to a position with the public service company, list each contract, agreement, or other business arrangement with a value exceeding $2,500 entered into during the reporting year between the public service company and each officer and director listed in subsection (a) of this section;

(3) for each contract, agreement, or other business arrangement described in paragraph (1) or (2) of this subsection, identify the parties, amounts, dates, and product or service involved; and

(4) list the professional services performed for the public service company by each firm, partnership, or organization with which an officer or director of the public service company is affiliated.

§6–210.

(a) (1) Except as provided in paragraph (2) of this subsection, a public service company shall describe in its annual report each long-term debt of the public service company exceeding $1,000,000, including:

(i) the name and address of the creditor;

(ii) the character of the debt;

(iii) the nature of any security;

(iv) the date of origin of the debt;

(v) the date of maturity of the debt;

(vi) the total amount of the debt;

(vii) the rate of interest; and

(viii) the total amount of interest to be paid.

(2) If the long-term debt is in the form of bonds, debentures, or other widely held debt, the public service company shall list the name and address of the trustee, if available, in place of the name and address of the creditor.

(b) In its annual report, a public service company shall:

(1) except for the accounts payable of the public service company, describe each short–term debt, including:

(i) the name and address of the creditor;

(ii) the character of the debt;

(iii) the period of the debt;

(iv) the rate of interest;

(v) the total amount of the debt;

(vi) the nature of any security; and

(vii) the date the debt was paid or shall be paid;

(2) describe, if involving aggregate payments exceeding $1,000,000, each financing lease, equipment trust, conditional sales contract, or major liability related to the capital assets of the public service company; and

(3) provide a copy of any restrictive covenant attached to the debt described in item (1) or (2) of this subsection.

(c) In its annual report, a public service company shall, if available:

(1) list the name and address of each holder of more than 5% of each issue reported under this section; and

(2) identify the holder as a bank, broker, holding company, individual, or other person.

§6–301.

(a) In this subtitle the following words have the meanings indicated.

(b) "Acquiring entity" means:

(1) a water company or a sewage company that is acquiring a selling utility as the result of a voluntary arm's length transaction between the buyer and seller; or

(2) another person that:

(i) is acquiring a selling utility as the result of a voluntary arm's length transaction between the buyer and seller; and

(ii) has applied to the Commission, directly or through an affiliate, for authority to operate as a public service company in the State.

(c) "Affiliate" has the meaning stated in § 7–501 of this article.

(d) "Construction allowance" means an accounting practice that recognizes the capital costs, including debt and equity funds that are used to finance the construction costs of an improvement to a selling utility's assets by an acquiring entity.

(e) "Fair market value" means the average of the two utility valuation expert appraisals conducted under § 6–304 of this subtitle.

(f) "Selling utility" means a water company or a sewage disposal company or any other water service or sewage disposal service provider in the State, including any State, county, or municipal water service provider or sewage disposal service provider that is being purchased by an acquiring entity as the result of a voluntary arm's length transaction between the buyer and seller.

(g) "Utility valuation expert" or "expert" means a person hired by an acquiring public utility and selling utility for the purpose of conducting an economic valuation of the selling utility to determine its fair market value.

§6–302.

This subtitle applies to the sale and acquisition, including all tangible assets, of public and private water service providers and sewage disposal service providers with fewer than 400,000 customers.

§6–303.

(a) Without prior authorization of the Commission, a person may not acquire a controlling interest in any State, county, municipal, or similar not–for–profit water service or sewage disposal service provider, for the purpose of converting the provider into a water company or sewage disposal company.

(b) The Commission may authorize an acquisition under subsection (a) of this section if the Commission finds that the acquisition is consistent with the public convenience and necessity.

§6–304.

(a) On agreement by both the acquiring entity and the selling utility, the fair market value of the selling utility shall be determined in accordance with this section.

(b) The acquiring entity and the selling utility shall each be responsible for hiring a utility valuation expert to conduct an appraisal of the selling utility to determine the fair market value of the selling utility.

(c) Each utility valuation appraisal shall be completed in accordance with the Uniform Standards of Professional Appraisal Practice.

(d) (1) The acquiring entity and the selling utility shall engage the services of the same licensed engineer to conduct an assessment of the tangible assets of the selling utility.

(2) The assessment shall be incorporated into the appraisals under subsection (c) of this section.

§6–305.

A utility valuation expert may not:

(1) derive any material financial benefit from the sale of the selling utility other than fees for services rendered; or

(2) be an immediate family member of a director, an officer, or an employee of either the acquiring entity or the selling utility within 12 months before the date of hiring to perform an appraisal under this subtitle.

§6–306.

(a) (1) Reasonable transaction and closing costs incurred by the acquiring entity shall be included in the rate making rate base of the acquiring entity.

(2) Fees paid to utility valuation experts may be included in the transaction and closing costs associated with acquisition by the acquiring entity.

(3) Unless the Commission finds just cause to authorize additional fees, fees eligible for inclusion may not exceed 5% of the fair market value of the selling utility or $50,000 if the actual fees paid exceed 5% of the fair market value.

(b) As of the closing date of the acquisition, the rate making rate base of the selling utility, including additions under subsection (a) of this section, shall be the lesser of:

(1) the purchase price negotiated by the acquiring entity and selling utility; or

(2) the fair market value of the selling utility.

§6–307.

(a) If an acquiring entity and the selling utility agree to use the process outlined in § 6–304 of this subtitle, the acquiring entity shall include in its application for Commission approval of the acquisition:

(1) copies of the two appraisals performed by the utility valuation experts under § 6–304 of this subtitle;

(2) the purchase price of the selling utility as agreed to by the acquiring entity and the selling utility;

(3) the rate making rate base of the selling utility determined in accordance with this subtitle;

(4) the transaction and closing costs incurred by the acquiring entity that will be included in its rate base; and

(5) a tariff containing a schedule of rates, service charges, and any additional fees to be incurred by the customers of the selling utility at or immediately after the closing date of acquisition.

(b) (1) Subject to paragraph (2) of this subsection, the Commission shall issue a final order on an application submitted under this subtitle within 180 days after the filing date of a complete application under subsection (a) of this section.

(2) The Commission may extend a proceeding under this subtitle for an additional 30 days if the Commission finds that the proceedings cannot be completed within the initial suspension period.

(3) After the expiration of 180 days under paragraph (1) of this subsection and any extension under paragraph (2) of this subsection, if the Commission has not entered a final order, the application shall be deemed approved.

(c) If the Commission issues an order approving the application for acquisition, the order shall include:

(1) the rate making rate base of the selling utility, as determined under this subtitle; and

(2) any conditions of approval that the Commission requires.

(d) The tariff submitted under subsection (a)(5) of this section shall remain in effect until new rates are approved for the acquiring entity in a base rate case proceeding.

(e) An appraisal conducted under this subtitle is presumed to be valid unless substantial evidence demonstrates a failure to adhere to the requirements of § 6–304 or § 6–305 of this subtitle.

§6–308.

(a) The cost of an improvement that an acquiring entity places in service after the acquisition shall accrue a construction allowance after the date the cost was incurred until the earlier of:

(1) 3 years after the improvement is placed in service; or

(2) the date the improvement is included in the acquiring entity's next base rate case.

(b) Depreciation on an acquiring entity's improvements after the acquisition shall be deferred for book and rate making purposes.

§7–101.

Except as otherwise provided by law, the provisions of this subtitle are not subject to the jurisdiction of the Commission.

§7–102.

(a) A gas company incorporated in Maryland may:

(1) manufacture artificial gas;

(2) sell or furnish any quantity of natural gas or artificial gas that may be required in any municipal corporation or county of the State;

(3) lay pipe under the roadways or other public ways of any county or municipal corporation of the State to transmit natural gas or artificial gas; and

(4) connect the pipe from the place of supply to any structure or object.

(b) (1) A gas company must have the consent of the governing body of the municipal corporation or county before laying any gas pipe in accordance with subsection (a) of this section.

(2) The governing body of the municipal corporation or county may adopt reasonable regulations and conditions for the laying of a gas pipe, including regulations requiring the gas company to refill and repave any roadway or other public way under which the pipe is laid.

(c) A gas company, whether incorporated in Maryland or another state, that is authorized by a governing body of a municipal corporation or county to lay or maintain pipe or other structures in a roadway or other public way or place shall

obtain consent from the Commission before using the pipe or other structure to transmit and supply natural gas, artificial gas, or a mixture of natural gas and artificial gas.

(d) This section does not:

(1) extend the duration of a franchise granted by the governing body of a municipal corporation or county; or

(2) except as provided in this section, change the terms or conditions of the franchise.

§7–103.

(a) An electric company incorporated in Maryland may:

(1) manufacture, sell, and furnish electric power in any municipal corporation or county of the State;

(2) construct a power line to transmit power under, along, on, or over the roadways or public ways of any municipal corporation or county of the State; and

(3) connect the power line from the place of supply to any other structure or object.

(b) (1) An electric company must have the consent of the governing body of the municipal corporation or county before laying or constructing any power line in accordance with subsection (a) of this section.

(2) The governing body of the municipal corporation or county may adopt reasonable regulations and conditions for the laying of a power line, including regulations requiring the electric company to refill and repave any roadway or public way under which the power line is laid.

§7–104.

The formation, organization, and governance of electric cooperatives incorporated in Maryland are governed by Title 5, Subtitle 6 of the Corporations and Associations Article.

§7–105.

(a) A water company incorporated in the State has the powers necessary for the purposes for which it is incorporated and may:

(1) acquire, possess, and use land, water rights, and other property for those purposes; and

(2) lay pipes and construct works necessary or suitable to carry out its purposes.

(b) (1) A water company shall obtain the consent of the governing body of the municipal corporation or county before laying pipes or constructing waterworks in that jurisdiction under subsection (a) of this section.

(2) The governing body of the municipal corporation or county may adopt reasonable regulations for the laying of pipes, construction of works, and operations of a water company.

(c) This section does not authorize the incorporation of a water company to operate in Baltimore City.

§7–106.

(a) This section does not qualify, limit, or abridge the power and authority, or the manner of exercise of any power and authority, conferred on a municipal corporation by its charter or a special act of the General Assembly to sell, lease, exchange, or otherwise dispose of any electric plant or gas plant.

(b) This section does not apply to:

(1) Talbot County;

(2) Washington County; or

(3) the municipal corporation of Berlin, Centreville, Hagerstown, Rock Hall, or Snow Hill.

(c) Subject to subsection (d) of this section, a municipal corporation that owns an electric plant or a gas plant may sell, lease, exchange, or otherwise dispose of the plant, or any part of or interest in the plant, to any electric company or gas company on terms and conditions determined by the municipal corporation.

(d) (1) The sale, lease, exchange, or other disposition of an electric plant or a gas plant by a municipal corporation is subject to approval by the Commission.

(2) If the Commission approves the sale, lease, exchange, or other disposition, at least twice within 15 days after the date of the order of approval by the

Commission, the municipal corporation shall publish notice of the sale, lease, exchange, or other disposition and of the approval by the Commission:

(i) in a newspaper published in the municipal corporation; or

(ii) if no newspaper is published in the municipal corporation, in a newspaper published in the county in which the municipal corporation is located.

(e) (1) A proposed sale, lease, exchange, or other disposition of a municipally owned electric plant or gas plant shall be ratified at a special election by the affirmative vote of a majority of the residents of the municipal corporation eligible to vote at the last preceding regular election for municipal officers if a petition, subject to paragraph (2) of this subsection, is delivered to the municipal corporation requesting the municipal corporation to hold a special election for the ratification or disapproval of the proposed sale, lease, exchange, or other disposition.

(2) A petition under paragraph (1) of this subsection shall be:

(i) in writing;

(ii) signed by at least 10% of the residents of the municipal corporation eligible to vote at the last preceding regular election for municipal officers; and

(iii) delivered within 30 days after the date of publication of the second notice required under subsection (d)(2) of this section.

(3) The municipal corporation shall hold a special election under this subsection at the time and place in the municipal corporation and in the manner that the municipal corporation requires.

(4) If the sale, lease, exchange, or other disposition is ratified at the special election, the municipal corporation shall consummate the sale, lease, exchange, or other disposition.

(f) (1) If a petition for a special election is not delivered to the municipal corporation in accordance with subsection (e) of this section:

(i) ratification at a special election is not required; and

(ii) the municipal corporation shall consummate the sale, lease, exchange, or other disposition.

(2) A sale, lease, exchange, or other disposition that is consummated under this subsection is as valid and effective as a disposition ratified under subsection (e) of this section.

§7–107.

Subject to the regulations of the Commission, the County Commissioners of Garrett County may adopt, amend, and enforce a reasonable charge for discontinuing and restoring water service.

§7–108.

(a) (1) In this section the following words have the meanings indicated.

(2) "Affiliate" has the meaning stated in § 7–501 of this title.

(3) "Meeting" means any committee, user group, task force, or other part of the regional transmission organization in which votes are taken.

(4) "Recorded vote" means a vote that is tabulated, either individually or as part of a sector, for any purpose at a meeting, regardless of:

(i) whether the vote represents a final position of any person casting the vote; or

(ii) the decision–making authority of those voting.

(5) "Regional transmission organization" means an entity that qualifies as a regional transmission organization under 18 C.F.R. § 35.34.

(b) This section does not apply to a municipal electric utility.

(c) (1) On or before February 1 each year, each electric company shall submit to the Commission a report on each recorded vote cast by the electric company or, subject to paragraph (2) of this subsection, a State affiliate of the electric company at a meeting of a regional transmission organization during the immediately preceding calendar year.

(2) The report shall include:

(i) all recorded votes cast by the electric company, regardless of whether the vote is otherwise disclosed; and

(ii) all votes cast by a State affiliate of the electric company if the electric company itself does not vote on the matter.

§7–201.

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

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

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

(3) The Chairman shall include information in the annual 10-year plan on current and projected efforts by electric companies and the Commission to moderate overall electrical generation demand and peak demand through the electric companies' promotion of energy conservation by customers and through the electric companies' use of alternative energy sources, including cogeneration.

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

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

(2) The evaluation of investments shall include:

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

(ii) utilization of renewable energy sources;

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

(iv) widespread public promotion of energy conservation programs.

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(ii) utilization of renewable energy sources;

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

(iv) widespread public promotion of energy conservation programs.

§7–202.

(a) If the Commission determines that a site is needed, the Commission, on its own motion, may request the Secretary of Natural Resources to purchase a power plant site as provided in Title 3, Subtitle 3 of the Natural Resources Article.

(b) In determining whether a need exists for the State to purchase a power plant site, the Commission shall consider:

(1) the suitability of sites owned by an electric company, both within and outside the State;

(2) the anticipated growth of electric power demand and the alternative means and locations for meeting that demand, both within and outside the State; and

(3) any other factors required by law.

(c) (1) The Commission may determine that a power plant site is needed only after the Commission gives public notice and holds a public hearing.

(2) The hearing shall be held in the legislative district in which the site under consideration is located.

§7–203.

(a) (1) The Commission shall:

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

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

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

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

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

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

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

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

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

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

(f) The surcharge imposed under this subtitle shall terminate on June 30, 2030.

§7–204.

(a) (1) Notwithstanding any other provision of this division, at least 30 days before a hearing, a public service company shall provide to each owner of land and each owner of adjacent land, by certified mail, written notice of intent to run a line or similar transmission device over, on, or under the land.

(2) The public service company shall determine the property owners from the current tax assessment records of the political subdivision in which the property is located.

(b) Unless the failure is willful or deliberate, the failure of a public service company to provide notice does not invalidate a public hearing or require that another hearing take place.

§7–205.

(a) (1) In this section, "modification" means a physical alteration of, replacement of, or other change to the facilities at a power plant, or a change in the fuel used by the plant, that could result in a change of the air emissions from the plant or from a generating unit of the plant.

(2) "Modification" does not include:

(i) routine maintenance or repairs of the facilities of a power plant; or

(ii) a change that the Commission determines will not result in an increase in air emissions from the plant or from a generating unit of the plant.

(b) Subject to subsections (c) through (e) of this section, a person may not commence a modification without the prior approval of the Commission under this title.

(c) (1) Unless the Commission orders otherwise, an application for a modification to a power plant shall be filed with the Commission at least 180 days before the date on which the modification is to commence.

(2) The applicant for the modification shall submit to the Commission and to the Department of the Environment all information relating to the modification, including:

(i) detailed plans and specifications; and

(ii) the impact of the modification on air quality.

(d) The Commission shall render its decision within 150 days after the day the application is filed.

(e) Notwithstanding the provisions of this section, a modification to a power plant that involves the short-term inability to obtain the type of fuel normally used by the plant is subject to Title 2, Subtitle 5 of the Environment Article.

§7–206.

(a) This section applies to the installation of pollution control equipment or a change in the method of operation at a generating station that a person performs in order to comply with Phase II pollution control requirements of the federal Clean Air Act.

(b) Any person that performs an installation or change in operation under subsection (a) of this section shall obtain prior review and approval of the Commission in accordance with:

(1) §§ 7-203, 7-207, and 7-208 of this subtitle; and

(2) the procedures set forth in § 7-205 of this subtitle and § 2-405 of the Environment Article.

(c) In order to meet compliance dates established under Title 2, Subtitle 10 of the Environment Article or the federal Clean Air Act, a Commission review and approval, or processing of an application for a certificate of public convenience and necessity under § 7-207 of this subtitle, shall be expedited and take precedence over other review and approval by the Commission if the review and approval or certificate of public convenience and necessity is required:

(1) for pollution control equipment or a change in the method of operation at a generating station; and

(2) for compliance with:

(i) Title 2, Subtitle 10 of the Environment Article;

(ii) regulations adopted by the Department of the Environment under Title 2, Subtitle 10 of the Environment Article; or

(iii) the federal Clean Air Act.

§7–207. ** CONTINGENCY – IN EFFECT – CHAPTER 572 OF 2025 **

(a) (1) In this section the following words have the meanings indicated.

(2) "Brownfields site" means:

(i) a former industrial or commercial site identified by federal or State laws or regulation as contaminated or polluted;

(ii) a closed landfill regulated by the Department of the Environment; or

(iii) mined land.

(3) (i) "Construction" means:

1. any physical change at a site, including fabrication, erection, installation, or demolition; or

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

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

(4) "Generating station" does not include:

(i) a generating unit or facility that:

1. is used for the production of electricity;

2. has the capacity to produce not more than 2 megawatts of alternating current; and

3. is installed with equipment that prevents the flow of electricity to the electric grid during time periods when the electric grid is out of service;

(ii) a combination of two or more generating units or facilities that:

1. are used for the production of electricity from a solar photovoltaic system or an eligible customer–generator that is subject to the provisions of § 7–306 of this title;

2. are located on the same property or adjacent properties;

3. have the capacity to produce, when calculated cumulatively for all generating units or facilities on the property or adjacent property, more than 2 megawatts but not more than 14 megawatts of alternating current; and

4. for each individual generating unit or facility:

A. has the capacity to produce not more than 2 megawatts of alternating current;

B. is separately metered by the electric company; and

C. does not export electricity for sale on the wholesale market under an agreement with PJM Interconnection, LLC;

(iii) a generating unit or facility that:

1. is used for the production of electricity for the purpose of:

A. onsite emergency backup at a facility when service from the electric company is interrupted due to electric distribution or transmission system failure or when there is equipment failure at a site where critical infrastructure is located; and

B. test and maintenance operations necessary to ensure functionality of the generating unit or facility in the event of a service interruption from the electric company due to electric distribution or transmission system failure or when there is equipment failure at a site where critical infrastructure is located;

2. is installed with equipment that prevents the flow of electricity to the electric grid;

3. is subject to a permit to construct issued by the Department of the Environment; and

4. is installed at a facility that is part of critical infrastructure if the facility complies with all applicable regulations regarding noise level and testing hours; or

(iv) a combination of two or more generating units or facilities that satisfy item (iii) of this paragraph.

(5) (i) "Mined land" means the surface or subsurface of an area in which surface mining operations will be, are being, or have been conducted.

(ii) "Mined land" includes:

1. private ways and roads used for mining appurtenant to any surface mining area;

2. land excavations;

3. workings; and

4. overburden.

(6) "Qualified generator lead line" means an overhead transmission line that is designed to carry a voltage in excess of 69,000 volts and would allow an out–of–state Tier 1 or Tier 2 renewable source to interconnect with a portion of the electric system in Maryland that is owned by an electric company.

(b) (1) (i) Except as provided in subparagraph (ii) of this paragraph, unless a certificate of public convenience and necessity for the construction is first obtained from the Commission, a person may not begin construction in the State of:

1. a generating station;

2. a qualified generator lead line; or

3. an energy storage device that is part of a proposal approved by the Commission under § 7–1206 of this title.

(ii) A person is not required to obtain a certificate of public convenience and necessity under this section if the person obtains:

1. Commission approval for construction under § 7–207.1 of this subtitle; or

2. a distributed generation certificate of public convenience and necessity under § 7–207.4 of this subtitle.

(iii) Notwithstanding subparagraph (i) of this paragraph, a person may not apply to obtain a certificate of public convenience and necessity for construction of a qualified generator lead line unless:

1. at least 90 days before the filing of an application for a certificate of public convenience and necessity, the person had in good faith offered the electric company that owns that portion of the electric grid in Maryland to which the qualified generator lead line would interconnect a full and fair opportunity for the electric company to construct the qualified generator lead line; and

2. at any time at least 10 days before the filing of an application for a certificate of public convenience and necessity, the electric company:

A. did not accept from the person a proposal or a negotiated version of the proposal under which the electric company would construct the qualified generator lead line; or

B. stated in writing that the electric company did not intend to construct the qualified generator lead line.

(iv) Notwithstanding any other provision of this section, a certificate of public convenience and necessity for the construction of a generating station that is part of a proposal approved by the Commission under § 7–1206 of this title shall be issued in accordance with § 7–207.4 of this subtitle.

(v) When a person applies for a certificate of public convenience and necessity for the construction of a generating station under this section, the application shall state whether the proposed generating station or the proposed modification is part of a proposal approved by the Commission under § 7–1206 of this title.

(vi) 1. The Commission may prioritize the review of an application for a certificate of public convenience and necessity under § 7–207.4 of this subtitle over the review of an application for a certificate of public convenience and necessity under this section.

2. The Commission may extend the time for the review of an application for a certificate of public convenience and necessity under this section if, in accordance with subsubparagraph 1 of this subparagraph, the Commission has prioritized the review of an application for a certificate of public

convenience and necessity under § 7–207.4 of this subtitle over the review of the application for a certificate of public convenience and necessity under this section.

(2) Unless a certificate of public convenience and necessity for the construction is first obtained from the Commission, and the Commission has found that the capacity is necessary to ensure a sufficient supply of electricity to customers in the State, a person may not exercise a right of condemnation in connection with the construction of a generating station.

(3) (i) Except as provided in paragraph (4) of this subsection, unless a certificate of public convenience and necessity for the construction is first obtained from the Commission, a person may not begin construction of an overhead transmission line that is designed to carry a voltage in excess of 69,000 volts or exercise a right of condemnation with the construction.

(ii) For construction related to an existing overhead transmission line, the Commission may waive the requirement in subparagraph (i) of this paragraph for good cause.

(iii) Notwithstanding subparagraph (i) of this paragraph and subject to subparagraph (iv) of this paragraph, the Commission may issue a certificate of public convenience and necessity for the construction of an overhead transmission line only if the applicant for the certificate of public convenience and necessity:

1. is an electric company; or

2. is or, on the start of commercial operation of the overhead transmission line, will be subject to regulation as a public utility by an officer or an agency of the United States.

(iv) The Commission may not issue a certificate of public convenience and necessity for the construction of an overhead transmission line in the electric distribution service territory of an electric company to an applicant other than an electric company if:

1. the overhead transmission line is to be located solely within the electric distribution service territory of that electric company; and

2. the cost of the overhead transmission line is to be paid solely by that electric company and its ratepayers.

(v) 1. This subparagraph applies to the construction of an overhead transmission line for which a certificate of public convenience and necessity is required under this section.

2. On issuance of a certificate of public convenience and necessity for the construction of an overhead transmission line, a person may acquire by condemnation, in accordance with Title 12 of the Real Property Article, any property or right necessary for the construction or maintenance of the transmission line.

(4) (i) Except as provided in subparagraph (ii) of this paragraph, for construction related to an existing overhead transmission line designed to carry a voltage in excess of 69,000 volts, the Commission shall waive the requirement to obtain a certificate of public convenience and necessity if the Commission finds that the construction does not:

1. require the person to obtain new real property or additional rights–of–way through eminent domain; or

2. require larger or higher structures to accommodate:

A. increased voltage; or

B. larger conductors.

(ii) 1. For construction related to an existing overhead transmission line, including repairs, that is necessary to avoid an imminent safety hazard or reliability risk, a person may undertake the necessary construction.

2. Within 30 days after construction is completed under subsubparagraph 1 of this subparagraph, a person shall file a report with the Commission describing the work that was completed.

(c) (1) On receipt of an application for a certificate of public convenience and necessity under this section, the Commission shall provide notice immediately or require the applicant to provide notice immediately of the application to:

(i) the Department of Planning;

(ii) the governing body, and if applicable the executive, of each county or municipal corporation in which any portion of the generating station, overhead transmission line, or qualified generator lead line is proposed to be constructed;

(iii) the governing body, and if applicable the executive, of each county or municipal corporation within 1 mile of the proposed location of the generating station, overhead transmission line, or qualified generator lead line;

(iv) each member of the General Assembly representing any part of a county in which any portion of the generating station, overhead transmission line, or qualified generator lead line is proposed to be constructed;

(v) each member of the General Assembly representing any part of each county within 1 mile of the proposed location of the generating station, overhead transmission line, or qualified generator lead line;

(vi) for a proposed overhead transmission line, each owner of land and each owner of adjacent land; and

(vii) all other interested persons.

(2) The Commission, when sending the notice required under paragraph (1) of this subsection, shall forward a copy of the application to:

(i) each appropriate State unit and unit of local government for review, evaluation, and comment regarding the significance of the proposal to State, area–wide, and local plans or programs; and

(ii) each member of the General Assembly included under paragraph (1)(iv) and (v) of this subsection who requests a copy of the application.

(3) On receipt of an application for a certificate of public convenience and necessity under this section, the Commission shall provide notice of the application on the Commission's social media platforms and website.

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

(ii) The Commission may hold the public hearing virtually rather than in person if the Commission provides a comparable opportunity for public comment and participation in the hearing.

(2) The Commission shall hold the public hearing jointly with the governing body of the county or municipal corporation in which any portion of the

construction of the generating station, overhead transmission line, or qualified generator lead line is proposed to be located, unless the governing body declines to participate in the hearing.

(3) (i) Once in each of the 4 successive weeks immediately before the hearing date, the Commission shall provide weekly notice of the public hearing and an opportunity for public comment:

1. by advertisement in a newspaper of general circulation in the county or municipal corporation affected by the application;

2. on two types of social media; and

3. on the Commission's website.

(ii) Before a public hearing, the Commission shall coordinate with the governing body of the county or municipal corporation in which any portion of the construction of the generating station, overhead transmission line, or qualified generator lead line is proposed to be located to identify additional options for providing, in an efficient and cost–effective manner, notice of the public hearing through other types of media that are familiar to the residents of the county or municipal corporation.

(4) (i) On the day of a public hearing, an informational sign shall be posted prominently at or near each public entrance of the building in which the public hearing will be held.

(ii) The informational sign required under subparagraph (i) of this paragraph shall:

1. state the time, room number, and subject of the public hearing; and

2. be at least 17 by 22 inches in size.

(iii) If the public hearing is conducted virtually rather than in person, the Commission shall provide information on the hearing prominently on the Commission's website.

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

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

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

(1) the recommendation of the governing body of each county or municipal corporation in which any portion of the construction of the generating station, overhead transmission line, or qualified generator lead line is proposed to be located;

(2) the effect of the generating station, overhead transmission line, or qualified generator lead line on:

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

(ii) economics;

(iii) esthetics;

(iv) historic sites;

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

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

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

(3) the effect of climate change on the generating station, overhead transmission line, or qualified generator lead line based on the best available scientific information recognized by the Intergovernmental Panel on Climate Change;

(4) for a generating station:

(i) the consistency of the application with the comprehensive plan and zoning of each county or municipal corporation where any portion of the generating station is proposed to be located;

(ii) the efforts to resolve any issues presented by a county or municipal corporation where any portion of the generating station is proposed to be located;

(iii) the impact of the generating station on the quantity of annual and long–term statewide greenhouse gas emissions, measured in the manner specified in § 2–1202 of the Environment Article and based on the best available scientific information recognized by the Intergovernmental Panel on Climate Change; and

(iv) the consistency of the application with the State's climate commitments for reducing statewide greenhouse gas emissions, including those specified in Title 2, Subtitle 12 of the Environment Article; and

(5) for a solar energy generating station specified under § 7–218 of this subtitle, whether the owner of a proposed solar energy generating station complies with the site requirements under § 7–218(f) of this subtitle.

(f) For the construction of an overhead transmission line, in addition to the considerations listed in subsection (e) of this section, the Commission shall:

(1) take final action on an application for a certificate of public convenience and necessity only after due consideration of:

(i) the need to meet existing and future demand for electric service; and

(ii) for construction related to a new overhead transmission line, the alternative routes that the applicant considered, including the estimated capital and operating costs of each alternative route and a statement of the reason why the alternative route was rejected;

(2) require as an ongoing condition of the certificate of public convenience and necessity that an applicant comply with:

(i) all relevant agreements with PJM Interconnection, L.L.C., or its successors, related to the ongoing operation and maintenance of the overhead transmission line; and

(ii) all obligations imposed by the North America Electric Reliability Council and the Federal Energy Regulatory Commission related to the ongoing operation and maintenance of the overhead transmission line; and

(3) require the applicant to identify whether the overhead transmission line is proposed to be constructed on:

(i) an existing brownfields site;

(ii) property that is subject to an existing easement; or

(iii) a site where a tower structure or components of a tower structure used to support an overhead transmission line exist.

(g) (1) The Commission may not authorize, and a person may not undertake, the construction of an overhead transmission line that is aligned with and within 1 mile of either end of a public airport runway, unless:

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

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

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

(h) (1) A county or municipal corporation has the authority to approve or deny any local permit required under a certificate of public convenience and necessity issued under this section or a distributed generation certificate of public convenience and necessity issued under § 7–207.4 of this subtitle.

(2) A county or municipal corporation shall approve or deny any local permits required under a certificate of public convenience and necessity issued under this section or a distributed generation certificate of public convenience and necessity issued under § 7–207.4 of this subtitle:

(i) within a reasonable time; and

(ii) to the extent local laws are not preempted by State law, in accordance with local laws.

(3) A county or municipal corporation may not condition the approval of a local permit required under a certificate of public convenience and necessity issued under this section or a distributed generation certificate of public convenience and necessity issued under § 7–207.4 of this subtitle on receipt of any of the following approvals for any aspect of a generating station, an overhead transmission line, or a qualified lead line proposed to be constructed under the certificate:

(i) a conditional use approval;

(ii) a special exception approval; or

(iii) a floating zone approval.

§7–207. ** CONTINGENCY – NOT IN EFFECT – CHAPTER 572 OF 2025 **

(a) (1) In this section the following words have the meanings indicated.

(2) "Brownfields site" means:

(i) a former industrial or commercial site identified by federal or State laws or regulation as contaminated or polluted;

(ii) a closed landfill regulated by the Department of the Environment; or

(iii) mined land.

(3) (i) "Construction" means:

1. any physical change at a site, including fabrication, erection, installation, or demolition; or

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

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

(4) "Generating station" does not include:

(i) a generating unit or facility that:

1. is used for the production of electricity;

2. has the capacity to produce not more than 2 megawatts of alternating current; and

3. is installed with equipment that prevents the flow of electricity to the electric grid during time periods when the electric grid is out of service;

(ii) a combination of two or more generating units or facilities that:

1. are used for the production of electricity from a solar photovoltaic system or an eligible customer–generator that is subject to the provisions of § 7–306 of this title;

2. are located on the same property or adjacent properties;

3. have the capacity to produce, when calculated cumulatively for all generating units or facilities on the property or adjacent property, more than 2 megawatts but not more than 14 megawatts of alternating current; and

4. for each individual generating unit or facility:

A. has the capacity to produce not more than 2 megawatts of alternating current;

B. is separately metered by the electric company; and

C. does not export electricity for sale on the wholesale market under an agreement with PJM Interconnection, LLC;

(iii) a generating unit or facility that:

1. is used for the production of electricity for the purpose of:

A. onsite emergency backup at a facility when service from the electric company is interrupted due to electric distribution or transmission system failure or when there is equipment failure at a site where critical infrastructure is located; and

B. test and maintenance operations necessary to ensure functionality of the generating unit or facility in the event of a service interruption from the electric company due to electric distribution or transmission system failure or when there is equipment failure at a site where critical infrastructure is located;

2. is installed with equipment that prevents the flow of electricity to the electric grid;

3. is subject to a permit to construct issued by the Department of the Environment; and

4. is installed at a facility that is part of critical infrastructure if the facility complies with all applicable regulations regarding noise level and testing hours; or

(iv) a combination of two or more generating units or facilities that satisfy item (iii) of this paragraph.

(5) (i) "Mined land" means the surface or subsurface of an area in which surface mining operations will be, are being, or have been conducted.

(ii) "Mined land" includes:

1. private ways and roads used for mining appurtenant to any surface mining area;

2. land excavations;

3. workings; and

4. overburden.

(6) "Qualified generator lead line" means an overhead transmission line that is designed to carry a voltage in excess of 69,000 volts and would allow an out–of–state Tier 1 or Tier 2 renewable source to interconnect with a portion of the electric system in Maryland that is owned by an electric company.

(b) (1) (i) Except as provided in subparagraph (ii) of this paragraph, unless a certificate of public convenience and necessity for the construction is first obtained from the Commission, a person may not begin construction in the State of:

1. a generating station;

2. a qualified generator lead line; or

3. an energy storage device that is part of a proposal approved by the Commission under § 7–1206 of this title.

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

(iii) Notwithstanding subparagraph (i) of this paragraph, a person may not apply to obtain a certificate of public convenience and necessity for construction of a qualified generator lead line unless:

1. at least 90 days before the filing of an application for a certificate of public convenience and necessity, the person had in good faith offered the electric company that owns that portion of the electric grid in Maryland to which the qualified generator lead line would interconnect a full and fair opportunity for the electric company to construct the qualified generator lead line; and

2. at any time at least 10 days before the filing of an application for a certificate of public convenience and necessity, the electric company:

A. did not accept from the person a proposal or a negotiated version of the proposal under which the electric company would construct the qualified generator lead line; or

B. stated in writing that the electric company did not intend to construct the qualified generator lead line.

(iv) Notwithstanding any other provision of this section, a certificate of public convenience and necessity for the construction of a generating station that is part of a proposal approved by the Commission under § 7–1206 of this title shall be issued in accordance with § 7–207.4 of this subtitle.

(v) When a person applies for a certificate of public convenience and necessity for the construction of a generating station under this section, the application shall state whether the proposed generating station or the proposed modification is part of a proposal approved by the Commission under § 7–1206 of this title.

(vi) 1. The Commission may prioritize the review of an application for a certificate of public convenience and necessity under § 7–207.4 of this subtitle over the review of an application for a certificate of public convenience and necessity under this section.

2. The Commission may extend the time for the review of an application for a certificate of public convenience and necessity under this section if, in accordance with subsubparagraph 1 of this subparagraph, the

Commission has prioritized the review of an application for a certificate of public convenience and necessity under § 7–207.4 of this subtitle over the review of the application for a certificate of public convenience and necessity under this section.

(2) Unless a certificate of public convenience and necessity for the construction is first obtained from the Commission, and the Commission has found that the capacity is necessary to ensure a sufficient supply of electricity to customers in the State, a person may not exercise a right of condemnation in connection with the construction of a generating station.

(3) (i) Except as provided in paragraph (4) of this subsection, unless a certificate of public convenience and necessity for the construction is first obtained from the Commission, a person may not begin construction of an overhead transmission line that is designed to carry a voltage in excess of 69,000 volts or exercise a right of condemnation with the construction.

(ii) For construction related to an existing overhead transmission line, the Commission may waive the requirement in subparagraph (i) of this paragraph for good cause.

(iii) Notwithstanding subparagraph (i) of this paragraph and subject to subparagraph (iv) of this paragraph, the Commission may issue a certificate of public convenience and necessity for the construction of an overhead transmission line only if the applicant for the certificate of public convenience and necessity:

1. is an electric company; or

2. is or, on the start of commercial operation of the overhead transmission line, will be subject to regulation as a public utility by an officer or an agency of the United States.

(iv) The Commission may not issue a certificate of public convenience and necessity for the construction of an overhead transmission line in the electric distribution service territory of an electric company to an applicant other than an electric company if:

1. the overhead transmission line is to be located solely within the electric distribution service territory of that electric company; and

2. the cost of the overhead transmission line is to be paid solely by that electric company and its ratepayers.

(v) 1. This subparagraph applies to the construction of an overhead transmission line for which a certificate of public convenience and necessity is required under this section.

2. On issuance of a certificate of public convenience and necessity for the construction of an overhead transmission line, a person may acquire by condemnation, in accordance with Title 12 of the Real Property Article, any property or right necessary for the construction or maintenance of the transmission line.

(4) (i) Except as provided in subparagraph (ii) of this paragraph, for construction related to an existing overhead transmission line designed to carry a voltage in excess of 69,000 volts, the Commission shall waive the requirement to obtain a certificate of public convenience and necessity if the Commission finds that the construction does not:

1. require the person to obtain new real property or additional rights–of–way through eminent domain; or

2. require larger or higher structures to accommodate:

A. increased voltage; or

B. larger conductors.

(ii) 1. For construction related to an existing overhead transmission line, including repairs, that is necessary to avoid an imminent safety hazard or reliability risk, a person may undertake the necessary construction.

2. Within 30 days after construction is completed under subsubparagraph 1 of this subparagraph, a person shall file a report with the Commission describing the work that was completed.

(c) (1) On receipt of an application for a certificate of public convenience and necessity under this section, the Commission shall provide notice immediately or require the applicant to provide notice immediately of the application to:

(i) the Department of Planning;

(ii) the governing body, and if applicable the executive, of each county or municipal corporation in which any portion of the generating station, overhead transmission line, or qualified generator lead line is proposed to be constructed;

(iii) the governing body, and if applicable the executive, of each county or municipal corporation within 1 mile of the proposed location of the generating station, overhead transmission line, or qualified generator lead line;

(iv) each member of the General Assembly representing any part of a county in which any portion of the generating station, overhead transmission line, or qualified generator lead line is proposed to be constructed;

(v) each member of the General Assembly representing any part of each county within 1 mile of the proposed location of the generating station, overhead transmission line, or qualified generator lead line;

(vi) for a proposed overhead transmission line, each owner of land and each owner of adjacent land; and

(vii) all other interested persons.

(2) The Commission, when sending the notice required under paragraph (1) of this subsection, shall forward a copy of the application to:

(i) each appropriate State unit and unit of local government for review, evaluation, and comment regarding the significance of the proposal to State, area–wide, and local plans or programs; and

(ii) each member of the General Assembly included under paragraph (1)(iv) and (v) of this subsection who requests a copy of the application.

(3) On receipt of an application for a certificate of public convenience and necessity under this section, the Commission shall provide notice of the application on the Commission's social media platforms and website.

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

(ii) The Commission may hold the public hearing virtually rather than in person if the Commission provides a comparable opportunity for public comment and participation in the hearing.

(2) The Commission shall hold the public hearing jointly with the governing body of the county or municipal corporation in which any portion of the

construction of the generating station, overhead transmission line, or qualified generator lead line is proposed to be located, unless the governing body declines to participate in the hearing.

(3) (i) Once in each of the 4 successive weeks immediately before the hearing date, the Commission shall provide weekly notice of the public hearing and an opportunity for public comment:

1. by advertisement in a newspaper of general circulation in the county or municipal corporation affected by the application;

2. on two types of social media; and

3. on the Commission's website.

(ii) Before a public hearing, the Commission shall coordinate with the governing body of the county or municipal corporation in which any portion of the construction of the generating station, overhead transmission line, or qualified generator lead line is proposed to be located to identify additional options for providing, in an efficient and cost–effective manner, notice of the public hearing through other types of media that are familiar to the residents of the county or municipal corporation.

(4) (i) On the day of a public hearing, an informational sign shall be posted prominently at or near each public entrance of the building in which the public hearing will be held.

(ii) The informational sign required under subparagraph (i) of this paragraph shall:

1. state the time, room number, and subject of the public hearing; and

2. be at least 17 by 22 inches in size.

(iii) If the public hearing is conducted virtually rather than in person, the Commission shall provide information on the hearing prominently on the Commission's website.

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

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

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

(1) the recommendation of the governing body of each county or municipal corporation in which any portion of the construction of the generating station, overhead transmission line, or qualified generator lead line is proposed to be located;

(2) the effect of the generating station, overhead transmission line, or qualified generator lead line on:

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

(ii) economics;

(iii) esthetics;

(iv) historic sites;

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

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

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

(3) the effect of climate change on the generating station, overhead transmission line, or qualified generator lead line based on the best available scientific information recognized by the Intergovernmental Panel on Climate Change;

(4) for a generating station:

(i) the consistency of the application with the comprehensive plan and zoning of each county or municipal corporation where any portion of the generating station is proposed to be located;

(ii) the efforts to resolve any issues presented by a county or municipal corporation where any portion of the generating station is proposed to be located;

(iii) the impact of the generating station on the quantity of annual and long–term statewide greenhouse gas emissions, measured in the manner specified in § 2–1202 of the Environment Article and based on the best available scientific information recognized by the Intergovernmental Panel on Climate Change; and

(iv) the consistency of the application with the State's climate commitments for reducing statewide greenhouse gas emissions, including those specified in Title 2, Subtitle 12 of the Environment Article; and

(5) for a solar energy generating station specified under § 7–218 of this subtitle, whether the owner of a proposed solar energy generating station complies with the site requirements under § 7–218(f) of this subtitle.

(f) For the construction of an overhead transmission line, in addition to the considerations listed in subsection (e) of this section, the Commission shall:

(1) take final action on an application for a certificate of public convenience and necessity only after due consideration of:

(i) the need to meet existing and future demand for electric service; and

(ii) for construction related to a new overhead transmission line, the alternative routes that the applicant considered, including the estimated capital and operating costs of each alternative route and a statement of the reason why the alternative route was rejected;

(2) require as an ongoing condition of the certificate of public convenience and necessity that an applicant comply with:

(i) all relevant agreements with PJM Interconnection, L.L.C., or its successors, related to the ongoing operation and maintenance of the overhead transmission line; and

(ii) all obligations imposed by the North America Electric Reliability Council and the Federal Energy Regulatory Commission related to the ongoing operation and maintenance of the overhead transmission line;

(3) require the applicant to identify whether the overhead transmission line is proposed to be constructed on:

(i) an existing brownfields site;

(ii) property that is subject to an existing easement; or

(iii) a site where a tower structure or components of a tower structure used to support an overhead transmission line exist; and

(4) for the construction of an overhead transmission line in an area specified in § 5–1203(b)(2)(ii), (y)(2), or (kk)(1)(ii) of the Natural Resources Article, require that an applicant provide wildland impact mitigation guarantees, including working with the Department of Natural Resources to acquire and replace the Type 1 State wildland acreage that is lost as a result of the transmission line with acreage that is twice the size and is suitable for designation as wildland acreage, and to develop and implement a land conservation management plan for the area affected by the transmission line that supports wildlife habitats.

(g) (1) The Commission may not authorize, and a person may not undertake, the construction of an overhead transmission line that is aligned with and within 1 mile of either end of a public airport runway, unless:

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

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

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

(h) (1) A county or municipal corporation has the authority to approve or deny any local permit required under a certificate of public convenience and necessity issued under this section or a distributed generation certificate of public convenience and necessity issued under § 7–207.4 of this subtitle.

(2) A county or municipal corporation shall approve or deny any local permits required under a certificate of public convenience and necessity issued under this section or a distributed generation certificate of public convenience and necessity issued under § 7–207.4 of this subtitle:

(i) within a reasonable time; and

(ii) to the extent local laws are not preempted by State law, in accordance with local laws.

(3) A county or municipal corporation may not condition the approval of a local permit required under a certificate of public convenience and necessity issued under this section or a distributed generation certificate of public convenience and necessity issued under § 7–207.4 of this subtitle on receipt of any of the following approvals for any aspect of a generating station, an overhead transmission line, or a qualified lead line proposed to be constructed under the certificate:

(i) a conditional use approval;

(ii) a special exception approval; or

(iii) a floating zone approval.

§7–207. ** CONTINGENCY – IN EFFECT – CHAPTER 572 OF 2025 **

// EFFECTIVE UNTIL JUNE 30, 2030 PER CHAPTERS 626 AND 625 OF 2025 //

(a) (1) In this section the following words have the meanings indicated.

(2) "Brownfields site" means:

(i) a former industrial or commercial site identified by federal or State laws or regulation as contaminated or polluted;

(ii) a closed landfill regulated by the Department of the Environment; or

(iii) mined land.

(3) (i) "Construction" means:

1. any physical change at a site, including fabrication, erection, installation, or demolition; or

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

(ii) "Construction" does not include a change that is needed for the temporary use of a site or route for nonutility purposes or for use in securing

geological data, including any boring that is necessary to ascertain foundation conditions.

(4) "Generating station" does not include:

(i) a generating unit or facility that:

1. is used for the production of electricity;

2. has the capacity to produce not more than 2 megawatts of alternating current; and

3. is installed with equipment that prevents the flow of electricity to the electric grid during time periods when the electric grid is out of service;

(ii) a combination of two or more generating units or facilities that:

1. are used for the production of electricity from a solar photovoltaic system or an eligible customer–generator that is subject to the provisions of § 7–306 of this title;

2. are located on the same property or adjacent properties;

3. have the capacity to produce, when calculated cumulatively for all generating units or facilities on the property or adjacent property, more than 2 megawatts but not more than 14 megawatts of alternating current; and

4. for each individual generating unit or facility:

A. has the capacity to produce not more than 2 megawatts of alternating current;

B. is separately metered by the electric company; and

C. does not export electricity for sale on the wholesale market under an agreement with PJM Interconnection, LLC;

(iii) a generating unit or facility that:

1. is used for the production of electricity for the purpose of:

A. onsite emergency backup at a facility when service from the electric company is interrupted due to electric distribution or transmission system failure or when there is equipment failure at a site where critical infrastructure is located; and

B. test and maintenance operations necessary to ensure functionality of the generating unit or facility in the event of a service interruption from the electric company due to electric distribution or transmission system failure or when there is equipment failure at a site where critical infrastructure is located;

2. is installed with equipment that prevents the flow of electricity to the electric grid;

3. is subject to a permit to construct issued by the Department of the Environment; and

4. is installed at a facility that is part of critical infrastructure if the facility complies with all applicable regulations regarding noise level and testing hours; or

(iv) a combination of two or more generating units or facilities that satisfy item (iii) of this paragraph.

(5) (i) "Mined land" means the surface or subsurface of an area in which surface mining operations will be, are being, or have been conducted.

(ii) "Mined land" includes:

1. private ways and roads used for mining appurtenant to any surface mining area;

2. land excavations;

3. workings; and

4. overburden.

(6) "Qualified generator lead line" means an overhead transmission line that is designed to carry a voltage in excess of 69,000 volts and would allow an out–of–state Tier 1 or Tier 2 renewable source to interconnect with a portion of the electric system in Maryland that is owned by an electric company.

(b) (1) (i) Except as provided in subparagraph (ii) of this paragraph, unless a certificate of public convenience and necessity for the construction is first obtained from the Commission, a person may not begin construction in the State of:

1. a generating station;

2. a qualified generator lead line; or

3. an energy storage device that is part of a proposal approved by the Commission under § 7–1206 of this title.

(ii) A person is not required to obtain a certificate of public convenience and necessity under this section if the person obtains:

1. Commission approval for construction under § 7–207.1 of this subtitle; or

2. a distributed generation certificate of public convenience and necessity under § 7–207.4 of this subtitle.

(iii) Notwithstanding subparagraph (i) of this paragraph, a person may not apply to obtain a certificate of public convenience and necessity for construction of a qualified generator lead line unless:

1. at least 90 days before the filing of an application for a certificate of public convenience and necessity, the person had in good faith offered the electric company that owns that portion of the electric grid in Maryland to which the qualified generator lead line would interconnect a full and fair opportunity for the electric company to construct the qualified generator lead line; and

2. at any time at least 10 days before the filing of an application for a certificate of public convenience and necessity, the electric company:

A. did not accept from the person a proposal or a negotiated version of the proposal under which the electric company would construct the qualified generator lead line; or

B. stated in writing that the electric company did not intend to construct the qualified generator lead line.

(iv) Notwithstanding any other provision of this section, a certificate of public convenience and necessity for the construction of a generating station that is part of a proposal approved by the Commission under § 7–1206 of this title shall be issued in accordance with § 7–207.4 of this subtitle.

(v) When a person applies for a certificate of public convenience and necessity for the construction of a generating station under this section, the application shall state whether the proposed generating station or the proposed modification is part of a proposal approved by the Commission under § 7–1206 of this title.

(vi) 1. The Commission may prioritize the review of an application for a certificate of public convenience and necessity under § 7–207.4 of this subtitle over the review of an application for a certificate of public convenience and necessity under this section.

2. The Commission may extend the time for the review of an application for a certificate of public convenience and necessity under this section if, in accordance with subsubparagraph 1 of this subparagraph, the Commission has prioritized the review of an application for a certificate of public convenience and necessity under § 7–207.4 of this subtitle over the review of the application for a certificate of public convenience and necessity under this section.

(2) Unless a certificate of public convenience and necessity for the construction is first obtained from the Commission, and the Commission has found that the capacity is necessary to ensure a sufficient supply of electricity to customers in the State, a person may not exercise a right of condemnation in connection with the construction of a generating station.

(3) (i) Except as provided in paragraph (4) of this subsection, unless a certificate of public convenience and necessity for the construction is first obtained from the Commission, a person may not begin construction of an overhead transmission line that is designed to carry a voltage in excess of 69,000 volts or exercise a right of condemnation with the construction.

(ii) For construction related to an existing overhead transmission line, the Commission may waive the requirement in subparagraph (i) of this paragraph for good cause.

(iii) Notwithstanding subparagraph (i) of this paragraph and subject to subparagraph (iv) of this paragraph, the Commission may issue a certificate of public convenience and necessity for the construction of an overhead transmission line only if the applicant for the certificate of public convenience and necessity:

1. is an electric company; or

2. is or, on the start of commercial operation of the overhead transmission line, will be subject to regulation as a public utility by an officer or an agency of the United States.

(iv) The Commission may not issue a certificate of public convenience and necessity for the construction of an overhead transmission line in the electric distribution service territory of an electric company to an applicant other than an electric company if:

1. the overhead transmission line is to be located solely within the electric distribution service territory of that electric company; and

2. the cost of the overhead transmission line is to be paid solely by that electric company and its ratepayers.

(v) 1. This subparagraph applies to the construction of an overhead transmission line for which a certificate of public convenience and necessity is required under this section.

2. On issuance of a certificate of public convenience and necessity for the construction of an overhead transmission line, a person may acquire by condemnation, in accordance with Title 12 of the Real Property Article, any property or right necessary for the construction or maintenance of the transmission line.

(4) (i) Except as provided in subparagraph (ii) of this paragraph, for construction related to an existing overhead transmission line designed to carry a voltage in excess of 69,000 volts, the Commission shall waive the requirement to obtain a certificate of public convenience and necessity if the Commission finds that the construction does not:

1. require the person to obtain new real property or additional rights–of–way through eminent domain; or

2. require larger or higher structures to accommodate:

A. increased voltage; or

B. larger conductors.

(ii) 1. For construction related to an existing overhead transmission line, including repairs, that is necessary to avoid an imminent safety hazard or reliability risk, a person may undertake the necessary construction.

2. Within 30 days after construction is completed under subsubparagraph 1 of this subparagraph, a person shall file a report with the Commission describing the work that was completed.

(c) (1) On receipt of an application for a certificate of public convenience and necessity under this section, the Commission shall provide notice immediately or require the applicant to provide notice immediately of the application to:

(i) the Department of Planning;

(ii) the governing body, and if applicable the executive, of each county or municipal corporation in which any portion of the generating station, overhead transmission line, or qualified generator lead line is proposed to be constructed;

(iii) the governing body, and if applicable the executive, of each county or municipal corporation within 1 mile of the proposed location of the generating station, overhead transmission line, or qualified generator lead line;

(iv) each member of the General Assembly representing any part of a county in which any portion of the generating station, overhead transmission line, or qualified generator lead line is proposed to be constructed;

(v) each member of the General Assembly representing any part of each county within 1 mile of the proposed location of the generating station, overhead transmission line, or qualified generator lead line;

(vi) for a proposed overhead transmission line, each owner of land and each owner of adjacent land; and

(vii) all other interested persons.

(2) The Commission, when sending the notice required under paragraph (1) of this subsection, shall forward a copy of the application to:

(i) each appropriate State unit and unit of local government for review, evaluation, and comment regarding the significance of the proposal to State, area–wide, and local plans or programs; and

(ii) each member of the General Assembly included under paragraph (1)(iv) and (v) of this subsection who requests a copy of the application.

(3) On receipt of an application for a certificate of public convenience and necessity under this section, the Commission shall provide notice of the application on the Commission's social media platforms and website.

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

(ii) The Commission may hold the public hearing virtually rather than in person if the Commission provides a comparable opportunity for public comment and participation in the hearing.

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

(3) (i) Once in each of the 4 successive weeks immediately before the hearing date, the Commission shall provide weekly notice of the public hearing and an opportunity for public comment:

1. by advertisement in a newspaper of general circulation in the county or municipal corporation affected by the application;

2. on two types of social media; and

3. on the Commission's website.

(ii) Before a public hearing, the Commission shall coordinate with the governing body of the county or municipal corporation in which any portion of the construction of the generating station, overhead transmission line, or qualified generator lead line is proposed to be located to identify additional options for providing, in an efficient and cost–effective manner, notice of the public hearing through other types of media that are familiar to the residents of the county or municipal corporation.

(4) (i) On the day of a public hearing, an informational sign shall be posted prominently at or near each public entrance of the building in which the public hearing will be held.

(ii) The informational sign required under subparagraph (i) of this paragraph shall:

1. state the time, room number, and subject of the public hearing; and

2. be at least 17 by 22 inches in size.

(iii) If the public hearing is conducted virtually rather than in person, the Commission shall provide information on the hearing prominently on the Commission's website.

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

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

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

(1) the recommendation of the governing body of each county or municipal corporation in which any portion of the construction of the generating station, overhead transmission line, or qualified generator lead line is proposed to be located;

(2) the effect of the generating station, overhead transmission line, or qualified generator lead line on:

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

(ii) economics;

(iii) esthetics;

(iv) historic sites;

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

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

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

(3) the effect of climate change on the generating station, overhead transmission line, or qualified generator lead line based on the best available scientific information recognized by the Intergovernmental Panel on Climate Change;

(4) for a generating station:

(i) the consistency of the application with the comprehensive plan and zoning of each county or municipal corporation where any portion of the generating station is proposed to be located;

(ii) the efforts to resolve any issues presented by a county or municipal corporation where any portion of the generating station is proposed to be located;

(iii) the impact of the generating station on the quantity of annual and long–term statewide greenhouse gas emissions, measured in the manner specified in § 2–1202 of the Environment Article and based on the best available scientific information recognized by the Intergovernmental Panel on Climate Change; and

(iv) the consistency of the application with the State's climate commitments for reducing statewide greenhouse gas emissions, including those specified in Title 2, Subtitle 12 of the Environment Article; and

(5) for a solar energy generating station specified under § 7–218 of this subtitle, whether the owner of a proposed solar energy generating station complies with the site requirements under § 7–218(f) of this subtitle.

(f) For the construction of an overhead transmission line, in addition to the considerations listed in subsection (e) of this section, the Commission shall:

(1) take final action on an application for a certificate of public convenience and necessity only after due consideration of:

(i) the need to meet existing and future demand for electric service; and

(ii) for construction related to a new overhead transmission line, the alternative routes that the applicant considered, including the estimated capital and operating costs of each alternative route and a statement of the reason why the alternative route was rejected;

(2) require as an ongoing condition of the certificate of public convenience and necessity that an applicant comply with:

(i) all relevant agreements with PJM Interconnection, LLC, or its successors, related to the ongoing operation and maintenance of the overhead transmission line; and

(ii) all obligations imposed by the North America Electric Reliability Council and the Federal Energy Regulatory Commission related to the ongoing operation and maintenance of the overhead transmission line; and

(3) require the applicant to identify whether the overhead transmission line is proposed to be constructed on:

(i) an existing brownfields site;

(ii) property that is subject to an existing easement; or

(iii) a site where a tower structure or components of a tower structure used to support an overhead transmission line exist.

(4) for the construction of an overhead transmission line in an area specified in § 5–1203(b)(2)(ii), (y)(2), or (kk)(1)(ii) of the Natural Resources Article, require that an applicant provide wildland impact mitigation guarantees, including working with the Department of Natural Resources to acquire and replace the Type 1 State wildland acreage that is lost as a result of the transmission line with acreage that is twice the size and is suitable for designation as wildland acreage, and to develop and implement a land conservation management plan for the area affected by the transmission line that supports wildlife habitats.

(g) (1) The Commission may not authorize, and a person may not undertake, the construction of an overhead transmission line that is aligned with and within 1 mile of either end of a public airport runway, unless:

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

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

(2) A privately owned airport runway shall qualify as a public airport runway under this subsection only if the runway has been on file with the Federal

Aviation Administration for at least 2 years as being open to the public without restriction.

(h) (1) A county or municipal corporation has the authority to approve or deny any local permit required under a certificate of public convenience and necessity issued under this section or a distributed generation certificate of public convenience and necessity issued under § 7–207.4 of this subtitle.

(2) A county or municipal corporation shall approve or deny any local permits required under a certificate of public convenience and necessity issued under this section or a distributed generation certificate of public convenience and necessity issued under § 7–207.4 of this subtitle:

(i) within a reasonable time; and

(ii) to the extent local laws are not preempted by State law, in accordance with local laws.

(3) A county or municipal corporation may not condition the approval of a local permit required under a certificate of public convenience and necessity issued under this section or a distributed generation certificate of public convenience and necessity issued under § 7–207.4 of this subtitle on receipt of any of the following approvals for any aspect of a generating station, an overhead transmission line, or a qualified lead line proposed to be constructed under the certificate:

(i) a conditional use approval;

(ii) a special exception approval; or

(iii) a floating zone approval.

§7–207. ** CONTINGENCY – NOT IN EFFECT – CHAPTER 572 OF 2025 **

// EFFECTIVE JUNE 30, 2030 PER CHAPTERS 625 AND 626 OF 2025 //

(a) (1) In this section the following words have the meanings indicated.

(2) "Brownfields site" means:

(i) a former industrial or commercial site identified by federal or State laws or regulation as contaminated or polluted;

(ii) a closed landfill regulated by the Department of the Environment; or

(iii) mined land.

(3) (i) "Construction" means:

1. any physical change at a site, including fabrication, erection, installation, or demolition; or

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

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

(4) "Generating station" does not include:

(i) a generating unit or facility that:

1. is used for the production of electricity;

2. has the capacity to produce not more than 2 megawatts of alternating current; and

3. is installed with equipment that prevents the flow of electricity to the electric grid during time periods when the electric grid is out of service;

(ii) a combination of two or more generating units or facilities that:

1. are used for the production of electricity from a solar photovoltaic system or an eligible customer–generator that is subject to the provisions of § 7–306 of this title;

2. are located on the same property or adjacent properties;

3. have the capacity to produce, when calculated cumulatively for all generating units or facilities on the property or adjacent property, more than 2 megawatts but not more than 14 megawatts of alternating current; and

4. for each individual generating unit or facility:

A. has the capacity to produce not more than 2 megawatts of alternating current;

B. is separately metered by the electric company; and

C. does not export electricity for sale on the wholesale market under an agreement with PJM Interconnection, LLC;

(iii) a generating unit or facility that:

1. is used for the production of electricity for the purpose of:

A. onsite emergency backup at a facility when service from the electric company is interrupted due to electric distribution or transmission system failure or when there is equipment failure at a site where critical infrastructure is located; and

B. test and maintenance operations necessary to ensure functionality of the generating unit or facility in the event of a service interruption from the electric company due to electric distribution or transmission system failure or when there is equipment failure at a site where critical infrastructure is located;

2. is installed with equipment that prevents the flow of electricity to the electric grid;

3. is subject to a permit to construct issued by the Department of the Environment; and

4. is installed at a facility that is part of critical infrastructure if the facility complies with all applicable regulations regarding noise level and testing hours; or

(iv) a combination of two or more generating units or facilities that satisfy item (iii) of this paragraph.

(5) (i) "Mined land" means the surface or subsurface of an area in which surface mining operations will be, are being, or have been conducted.

(ii) "Mined land" includes:

1. private ways and roads used for mining appurtenant to any surface mining area;

2. land excavations;

3. workings; and

4. overburden.

(6) "Qualified generator lead line" means an overhead transmission line that is designed to carry a voltage in excess of 69,000 volts and would allow an out–of–state Tier 1 or Tier 2 renewable source to interconnect with a portion of the electric system in Maryland that is owned by an electric company.

(b) (1) (i) Except as provided in subparagraph (ii) of this paragraph, unless a certificate of public convenience and necessity for the construction is first obtained from the Commission, a person may not begin construction in the State of:

1. a generating station; or

2. a qualified generator lead line.

(ii) A person is not required to obtain a certificate of public convenience and necessity under this section if the person obtains:

1. Commission approval for construction under § 7–207.1 of this subtitle; or

2. a distributed generation certificate of public convenience and necessity under § 7–207.4 of this subtitle.

(iii) Notwithstanding subparagraph (i) of this paragraph, a person may not apply to obtain a certificate of public convenience and necessity for construction of a qualified generator lead line unless:

1. at least 90 days before the filing of an application for a certificate of public convenience and necessity, the person had in good faith offered the electric company that owns that portion of the electric grid in Maryland to which

the qualified generator lead line would interconnect a full and fair opportunity for the electric company to construct the qualified generator lead line; and

2. at any time at least 10 days before the filing of an application for a certificate of public convenience and necessity, the electric company:

A. did not accept from the person a proposal or a negotiated version of the proposal under which the electric company would construct the qualified generator lead line; or

B. stated in writing that the electric company did not intend to construct the qualified generator lead line.

(2) Unless a certificate of public convenience and necessity for the construction is first obtained from the Commission, and the Commission has found that the capacity is necessary to ensure a sufficient supply of electricity to customers in the State, a person may not exercise a right of condemnation in connection with the construction of a generating station.

(3) (i) Except as provided in paragraph (4) of this subsection, unless a certificate of public convenience and necessity for the construction is first obtained from the Commission, a person may not begin construction of an overhead transmission line that is designed to carry a voltage in excess of 69,000 volts or exercise a right of condemnation with the construction.

(ii) For construction related to an existing overhead transmission line, the Commission may waive the requirement in subparagraph (i) of this paragraph for good cause.

(iii) Notwithstanding subparagraph (i) of this paragraph and subject to subparagraph (iv) of this paragraph, the Commission may issue a certificate of public convenience and necessity for the construction of an overhead transmission line only if the applicant for the certificate of public convenience and necessity:

1. is an electric company; or

2. is or, on the start of commercial operation of the overhead transmission line, will be subject to regulation as a public utility by an officer or an agency of the United States.

(iv) The Commission may not issue a certificate of public convenience and necessity for the construction of an overhead transmission line in

the electric distribution service territory of an electric company to an applicant other than an electric company if:

1. the overhead transmission line is to be located solely within the electric distribution service territory of that electric company; and

2. the cost of the overhead transmission line is to be paid solely by that electric company and its ratepayers.

(v) 1. This subparagraph applies to the construction of an overhead transmission line for which a certificate of public convenience and necessity is required under this section.

2. On issuance of a certificate of public convenience and necessity for the construction of an overhead transmission line, a person may acquire by condemnation, in accordance with Title 12 of the Real Property Article, any property or right necessary for the construction or maintenance of the transmission line.

(4) (i) Except as provided in subparagraph (ii) of this paragraph, for construction related to an existing overhead transmission line designed to carry a voltage in excess of 69,000 volts, the Commission shall waive the requirement to obtain a certificate of public convenience and necessity if the Commission finds that the construction does not:

1. require the person to obtain new real property or additional rights–of–way through eminent domain; or

2. require larger or higher structures to accommodate:

A. increased voltage; or

B. larger conductors.

(ii) 1. For construction related to an existing overhead transmission line, including repairs, that is necessary to avoid an imminent safety hazard or reliability risk, a person may undertake the necessary construction.

2. Within 30 days after construction is completed under subsubparagraph 1 of this subparagraph, a person shall file a report with the Commission describing the work that was completed.

(c) (1) On receipt of an application for a certificate of public convenience and necessity under this section, the Commission shall provide notice immediately or require the applicant to provide notice immediately of the application to:

(i) the Department of Planning;

(ii) the governing body, and if applicable the executive, of each county or municipal corporation in which any portion of the generating station, overhead transmission line, or qualified generator lead line is proposed to be constructed;

(iii) the governing body, and if applicable the executive, of each county or municipal corporation within 1 mile of the proposed location of the generating station, overhead transmission line, or qualified generator lead line;

(iv) each member of the General Assembly representing any part of a county in which any portion of the generating station, overhead transmission line, or qualified generator lead line is proposed to be constructed;

(v) each member of the General Assembly representing any part of each county within 1 mile of the proposed location of the generating station, overhead transmission line, or qualified generator lead line;

(vi) for a proposed overhead transmission line, each owner of land and each owner of adjacent land; and

(vii) all other interested persons.

(2) The Commission, when sending the notice required under paragraph (1) of this subsection, shall forward a copy of the application to:

(i) each appropriate State unit and unit of local government for review, evaluation, and comment regarding the significance of the proposal to State, area–wide, and local plans or programs; and

(ii) each member of the General Assembly included under paragraph (1)(iv) and (v) of this subsection who requests a copy of the application.

(3) On receipt of an application for a certificate of public convenience and necessity under this section, the Commission shall provide notice of the application on the Commission's social media platforms and website.

(d) (1) (i) The Commission shall provide an opportunity for public comment and hold a public hearing on the application for a certificate of public

convenience and necessity in each county and municipal corporation in which any portion of the construction of a generating station, an overhead transmission line designed to carry a voltage in excess of 69,000 volts, or a qualified generator lead line is proposed to be located.

(ii) The Commission may hold the public hearing virtually rather than in person if the Commission provides a comparable opportunity for public comment and participation in the hearing.

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

(3) (i) Once in each of the 4 successive weeks immediately before the hearing date, the Commission shall provide weekly notice of the public hearing and an opportunity for public comment:

1. by advertisement in a newspaper of general circulation in the county or municipal corporation affected by the application;

2. on two types of social media; and

3. on the Commission's website.

(ii) Before a public hearing, the Commission shall coordinate with the governing body of the county or municipal corporation in which any portion of the construction of the generating station, overhead transmission line, or qualified generator lead line is proposed to be located to identify additional options for providing, in an efficient and cost–effective manner, notice of the public hearing through other types of media that are familiar to the residents of the county or municipal corporation.

(4) (i) On the day of a public hearing, an informational sign shall be posted prominently at or near each public entrance of the building in which the public hearing will be held.

(ii) The informational sign required under subparagraph (i) of this paragraph shall:

1. state the time, room number, and subject of the public hearing; and

2. be at least 17 by 22 inches in size.

(iii) If the public hearing is conducted virtually rather than in person, the Commission shall provide information on the hearing prominently on the Commission's website.

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

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

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

(1) the recommendation of the governing body of each county or municipal corporation in which any portion of the construction of the generating station, overhead transmission line, or qualified generator lead line is proposed to be located;

(2) the effect of the generating station, overhead transmission line, or qualified generator lead line on:

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

(ii) economics;

(iii) esthetics;

(iv) historic sites;

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

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

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

(3) the effect of climate change on the generating station, overhead transmission line, or qualified generator lead line based on the best available scientific information recognized by the Intergovernmental Panel on Climate Change;

(4) for a generating station:

(i) the consistency of the application with the comprehensive plan and zoning of each county or municipal corporation where any portion of the generating station is proposed to be located;

(ii) the efforts to resolve any issues presented by a county or municipal corporation where any portion of the generating station is proposed to be located;

(iii) the impact of the generating station on the quantity of annual and long–term statewide greenhouse gas emissions, measured in the manner specified in § 2–1202 of the Environment Article and based on the best available scientific information recognized by the Intergovernmental Panel on Climate Change; and

(iv) the consistency of the application with the State's climate commitments for reducing statewide greenhouse gas emissions, including those specified in Title 2, Subtitle 12 of the Environment Article; and

(5) for a solar energy generating station specified under § 7–218 of this subtitle, whether the owner of a proposed solar energy generating station complies with the site requirements under § 7–218(f) of this subtitle.

(f) For the construction of an overhead transmission line, in addition to the considerations listed in subsection (e) of this section, the Commission shall:

(1) take final action on an application for a certificate of public convenience and necessity only after due consideration of:

(i) the need to meet existing and future demand for electric service; and

(ii) for construction related to a new overhead transmission line, the alternative routes that the applicant considered, including the estimated capital and operating costs of each alternative route and a statement of the reason why the alternative route was rejected;

(2) require as an ongoing condition of the certificate of public convenience and necessity that an applicant comply with:

(i) all relevant agreements with PJM Interconnection, LLC, or its successors, related to the ongoing operation and maintenance of the overhead transmission line; and

(ii) all obligations imposed by the North America Electric Reliability Council and the Federal Energy Regulatory Commission related to the ongoing operation and maintenance of the overhead transmission line; and

(3) require the applicant to identify whether the overhead transmission line is proposed to be constructed on:

(i) an existing brownfields site;

(ii) property that is subject to an existing easement; or

(iii) a site where a tower structure or components of a tower structure used to support an overhead transmission line exist.

(g) (1) The Commission may not authorize, and a person may not undertake, the construction of an overhead transmission line that is aligned with and within 1 mile of either end of a public airport runway, unless:

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

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

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

(h) (1) A county or municipal corporation has the authority to approve or deny any local permit required under a certificate of public convenience and necessity issued under this section or a distributed generation certificate of public convenience and necessity issued under § 7–207.4 of this subtitle.

(2) A county or municipal corporation shall approve or deny any local permits required under a certificate of public convenience and necessity issued under this section or a distributed generation certificate of public convenience and necessity issued under § 7–207.4 of this subtitle:

(i) within a reasonable time; and

(ii) to the extent local laws are not preempted by State law, in accordance with local laws.

(3) A county or municipal corporation may not condition the approval of a local permit required under a certificate of public convenience and necessity issued under this section or a distributed generation certificate of public convenience and necessity issued under § 7–207.4 of this subtitle on receipt of any of the following approvals for any aspect of a generating station, an overhead transmission line, or a qualified lead line proposed to be constructed under the certificate:

(i) a conditional use approval;

(ii) a special exception approval; or

(iii) a floating zone approval.

§7–207.1.

(a) In this section, "generating station" does not include:

(1) a generating unit or facility that:

(i) is used for the production of electricity;

(ii) has the capacity to produce not more than 2 megawatts of alternating current; and

(iii) is installed with equipment that prevents the flow of electricity to the electric grid during time periods when the electric grid is out of service;

(2) a combination of two or more generating units or facilities that:

(i) are used for the production of electricity from a solar photovoltaic system or an eligible customer–generator that is subject to the provisions of § 7–306 of this title;

(ii) are located on the same property or adjacent properties;

(iii) have the capacity to produce, when calculated cumulatively for all generating units or facilities on the property or adjacent property, more than 2 megawatts but not more than 14 megawatts of alternating current; and

(iv) for each individual generating unit or facility:

1. has the capacity to produce not more than 2 megawatts of alternating current;

2. is separately metered by the electric company; and

3. does not export electricity for sale on the wholesale market under an agreement with PJM Interconnection, LLC;

(3) a generating unit or facility that:

(i) is used for the production of electricity for the purpose of:

1. onsite emergency backup at a facility when service from the electric company is interrupted due to electric distribution or transmission system failure or when there is equipment failure at a site where critical infrastructure is located; and

2. test and maintenance operations necessary to ensure functionality of the generating unit or facility in the event of a service interruption from the electric company due to electric distribution or transmission system failure or when there is equipment failure at a site where critical infrastructure is located;

(ii) is installed with equipment that prevents the flow of electricity to the electric grid;

(iii) is subject to a permit to construct issued by the Department of the Environment; and

(iv) is installed at a facility that is part of critical infrastructure if the facility complies with all applicable regulations regarding noise level and testing hours; or

(4) a combination of two or more generating units or facilities that satisfy item (3) of this subsection.

(b) This section applies to a person who:

(1) constructs a generating station:

(i) designed to provide on–site generated electricity if:

1. the capacity of the generating station does not exceed 70 megawatts; and

2. the electricity that may be exported for sale from the generating station to the electric system is sold only on the wholesale market pursuant to an interconnection, operation, and maintenance agreement with the local electric company; or

(ii) that produces electricity from wind if:

1. the generating station is land–based;

2. the capacity of the generating station does not exceed 70 megawatts;

3. the electricity that may be exported for sale from the generating station to the electric system is sold only on the wholesale market pursuant to an interconnection, operation, and maintenance agreement with the local electric company;

4. the Commission provides an opportunity for public comment at a public hearing as provided in subsection (g) of this section; and

5. the generating station's wind turbines are not located within a distance from the Patuxent River Naval Air Station that is determined by regulations adopted by the Commission in coordination with the Commander, Naval Air Warfare Center Aircraft Division, provided that the distance requirement under the regulation is:

A. not greater than is necessary to encompass an area in which utility scale wind turbines could create Doppler radar interference for missions at the Patuxent River Naval Air Station;

B. not greater than 46 miles, measured from location 38.29667N, 76.37668W; and

C. subject to modification if necessary to reflect changes in missions or technology at the Patuxent River Naval Air Station or changes in wind energy technology; or

(2) constructs a generating station if:

(i) the capacity of the generating station does not exceed 25 megawatts;

(ii) the electricity that may be exported for sale from the generating station to the electric system is sold only on the wholesale market pursuant to an interconnection, operation, and maintenance agreement with the local electric company; and

(iii) at least 10% of the electricity generated at the generating station each year is consumed on–site.

(c) (1) The Commission shall require a person that is exempted from the requirement to obtain a certificate of public convenience and necessity under § 7–207(b)(1)(ii)1 of this subtitle to obtain approval from the Commission under this section before the person may construct a generating station described in subsection (b) of this section.

(2) An application for approval under this section shall:

(i) be made to the Commission in writing on a form adopted by the Commission;

(ii) be verified by oath or affirmation; and

(iii) contain information that the Commission requires, including:

1. proof of compliance with all applicable requirements of the independent system operator; and

2. a copy of an interconnection, operation, and maintenance agreement between the generating station and the local electric company.

(d) On receipt of an application for approval under this section, the Commission shall provide notice immediately or require the applicant to provide notice immediately of the application to:

(1) the governing body of each county or municipal corporation in which any portion of the generating station is proposed to be constructed;

(2) the governing body of each county or municipal corporation within 1 mile of the proposed location of the generating station;

(3) each member of the General Assembly representing any part of a county in which any portion of the generating station is proposed to be constructed; and

(4) each member of the General Assembly representing any part of each county within 1 mile of the proposed location of the generating station.

(e) When reviewing an application for approval under this section, the Commission shall:

(1) ensure the safety and reliability of the electric system;

(2) require the person constructing the generating station to notify the Commission 2 weeks before the first export of electricity from a generating station approved under this section; and

(3) conduct its review and approval in an expeditious manner.

(f) Except for the notice required under subsection (d) of this section, the Commission may waive an element of the approval process under this section if the Commission determines that the waiver is in the public interest.

(g) (1) The Commission shall provide an opportunity for public comment and hold a public hearing as provided under this subsection on an application for approval made under subsection (b)(1)(ii) of this section in each county and municipal corporation in which any portion of the construction of a generating station is proposed to be located.

(2) Upon the request of the governing body of a county or municipal corporation in which any portion of the construction of a generating station is proposed to be located, the Commission shall hold the public hearing jointly with the governing body.

(3) Once in each of 2 successive weeks immediately before the hearing date, the Commission, at the expense of the applicant, shall provide weekly notice of the public hearing and opportunity for public comment by advertisement in a newspaper of general circulation in the county or municipal corporation affected by the application.

§7–207.2.

(a) In this section, "generating station" does not include:

(1) a generating unit or facility that:

(i) is used for the production of electricity;

(ii) has the capacity to produce not more than 2 megawatts of alternating current; and

(iii) is installed with equipment that prevents the flow of electricity to the electric grid during time periods when the electric grid is out of service;

(2) a combination of two or more generating units or facilities that:

(i) are used for the production of electricity from a solar photovoltaic system or an eligible customer–generator that is subject to the provisions of § 7–306 of this title;

(ii) are located on the same property or adjacent properties;

(iii) have the capacity to produce, when calculated cumulatively for all generating units or facilities on the property or adjacent property, more than 2 megawatts but not more than 14 megawatts of alternating current; and

(iv) for each individual generating unit or facility:

1. has the capacity to produce not more than 2 megawatts of alternating current;

2. is separately metered by the electric company; and

3. does not export electricity for sale on the wholesale market under an agreement with PJM Interconnection, LLC;

(3) a generating unit or facility that:

(i) is used for the production of electricity for the purpose of:

1. onsite emergency backup at a facility when service from the electric company is interrupted due to electric distribution or transmission system failure or when there is equipment failure at a site where critical infrastructure is located; and

2. test and maintenance operations necessary to ensure functionality of the generating unit or facility in the event of a service interruption from the electric company due to electric distribution or transmission

system failure or when there is equipment failure at a site where critical infrastructure is located;

(ii) is installed with equipment that prevents the flow of electricity to the electric grid;

(iii) is subject to a permit to construct issued by the Department of the Environment; and

(iv) is installed at a facility that is part of critical infrastructure if the facility complies with all applicable regulations regarding noise level and testing hours; or

(4) a combination of two or more generating units or facilities that satisfy item (3) of this subsection.

(b) This section applies to a person who constructs a generating station that:

(1) has the capacity to produce more than 2 megawatts of electricity, as measured by the alternating current rating of the system's inverter, from a solar photovoltaic system; and

(2) is exempted under § 7–207(b)(1)(ii) of this subtitle from the requirement to obtain a certificate of public convenience and necessity.

(c) (1) A person shall file an application for approval to construct a generating station under § 7–207.1 of this subtitle at least 6 months before construction commences.

(2) The Commission shall require a person who files an application for approval to construct a generating station to pay a deposit of 1% of total installed costs.

(d) (1) The Commission shall place any deposits collected under subsection (c) of this section into an escrow account.

(2) If a person demonstrates to the Commission that the person is fully authorized to commence construction within 18 months after filing an application for approval, the Commission shall refund the deposit, less reasonable administrative costs.

(3) (i) Subject to subparagraph (ii) of this paragraph, if a person does not commence construction within 18 months after filing an application for approval, the money held in the escrow account shall be:

1. deemed to be abandoned; and

2. transferred to the Maryland Strategic Energy Investment Fund under § 9–20B–05 of the State Government Article, less reasonable administrative costs.

(ii) 1. A person may request an extension for a project that does not commence construction within 18 months after the filing of an application for approval.

2. The Commission may grant the request based on factors the Commission considers compelling, including the occurrence of events outside the person's control.

§7–207.3.

(a) (1) On or before December 1, 2025, and each December 1 thereafter, the owner or operator of a generating unit or facility specified under § 7–207(a)(4)(iii) of this subtitle shall submit to the Department of the Environment a report that includes:

(i) dates on which the generating unit or facility was used for the previous 12 months;

(ii) the length of time the generating unit or facility was operated for the previous 12 months; and

(iii) for each instance that the generating unit or facility was operated over the previous 12 months, the reason the generating unit or facility was operated.

(2) Unless the Department of the Environment determines that the report required under paragraph (1) of this subsection poses a risk to cybersecurity, national security, or the security of the State, the report:

(i) shall be made publicly available; and

(ii) may not be redacted.

(b) On or before December 1, 2025, and every 2 years thereafter, the Maryland Energy Administration, in consultation with the Department of Commerce and industry representatives selected by the Department of Commerce, shall, in accordance with § 2–1257 of the State Government Article, submit a report to the General Assembly detailing:

(1) advancements in backup generation technologies;

(2) the commercial availability of new backup generation technologies that can be procured; and

(3) the affordability of adopting new backup generation technologies.

§7–207.4.

(a) (1) In this section the following words have the meanings indicated.

(2) "Distributed generation certificate of public convenience and necessity" or "DGCPCN" means a certificate issued by the Commission under this section that authorizes the construction and operation of a distributed solar energy generating system.

(3) "Distributed solar energy generating system" means a community solar energy generating system, as defined in § 7–306.2 of this title, that:

(i) would be required to obtain a certificate of public convenience and necessity under § 7–207 of this subtitle if the system does not obtain a DGCPCN under this section;

(ii) has a capacity to produce more than 2 megawatts but not more than 5 megawatts of alternating current as measured by the alternating current rating of the system's inverter; and

(iii) is not located within a municipal corporation.

(4) "Forest" has the meaning stated in § 5–1601 of the Natural Resources Article.

(5) "Power Plant Research Program" means the program within the Department of Natural Resources under Title 3, Subtitle 3 of the Natural Resources Article.

(6) "Standard licensing conditions" means the predetermined licensing conditions adopted by the Commission under this section for the

construction and operation of a distributed solar energy generating system that has been issued a DGCPCN under this section.

(7) "Standard siting and design requirements" means the predetermined objective requirements adopted by the Commission under this section for the siting and design of a distributed solar energy generating system that has been issued a DGCPCN under this section.

(b) (1) On or before July 1, 2026, the Power Plant Research Program, after giving notice and opportunity for public comment, shall develop and submit to the Commission proposed standard siting and design requirements and proposed standard licensing conditions for the issuance of a DGCPCN.

(2) In developing the proposed standard siting and design requirements and the proposed standard licensing conditions, the Power Plant Research Program shall:

(i) consider achievement of the State's climate and renewable energy commitments;

(ii) consider reasonable setbacks and landscape screening requirements;

(iii) consider environmental preservation, including prohibitions on forest clearance except where necessary to:

1. reduce solar panel shading near the perimeter of the project site;

2. facilitate interconnection infrastructure; and

3. ensure adequate site access;

(iv) consider stormwater management, erosion and sediment control, and site stabilization, accounting for:

1. the effects on runoff from solar panels and associated equipment;

2. the effects of soil characteristics and compaction on runoff; and

3. the effects of the ground cover under and between the solar panels on runoff;

(v) consider minimization and mitigation of the effects of a distributed solar energy generating system on historic sites;

(vi) consider public safety;

(vii) consider industry best practices;

(viii) consider ensuring the stability and reliability of the electric system by requiring the applicant to submit a signed interconnection agreement with the electric company before the start of construction;

(ix) consider licensing conditions previously adopted by the Commission for solar energy generating systems, including requirements related to decommissioning;

(x) ensure the standard siting and design requirements are consistent with § 7–218 of this subtitle; and

(xi) consider any other requirements determined necessary by the Power Plant Research Program.

(c) (1) Subject to paragraph (2) of this subsection, on or before July 1, 2027, the Commission shall adopt regulations to:

(i) implement standard siting and design requirements and standard licensing conditions for a DGCPCN;

(ii) specify the form of the application for a distributed solar energy generating system to receive a DGCPCN and any application fee;

(iii) specify the Commission's procedure for processing an application for a DGCPCN; and

(iv) establish the time period within which the Power Plant Research Program must make the determination under subsection (f) of this section.

(2) The Commission shall:

(i) consider the proposed standard siting and design requirements and the proposed standard licensing conditions developed by the Power Plant Research Program in adopting the regulations under this subsection; and

(ii) ensure regulations adopted to implement standard siting and design requirements are consistent with § 7–218 of this subtitle.

(3) (i) The Commission, in consultation with the Power Plant Research Program, may periodically solicit public comments regarding improvements to the standard siting and design requirements and standard licensing conditions for a DGCPCN.

(ii) The process for soliciting public comments under subparagraph (i) of this paragraph shall be the same as the process for soliciting public comment regarding the adoption of a regulation.

(4) (i) The Commission and the Department of Natural Resources may jointly set an application fee for a DGCPCN application at an amount that the Commission and the Department of Natural Resources determine may offset the administrative costs of the DGCPCN approval process that are incurred by the Commission and the Department of Natural Resources.

(ii) The administrative costs under subparagraph (i) of this paragraph shall be based on an estimate of the number of DGCPCN applications that will be filed with the Commission each year.

(d) (1) A person may not begin construction of a distributed solar energy generating system unless:

(i) a DGCPCN is first obtained from the Commission in accordance with this section; or

(ii) a certificate of public convenience and necessity is first obtained from the Commission in accordance with § 7–207 of this subtitle.

(2) At least 30 days before submitting an application for a DGCPCN to the Commission, the applicant shall submit a copy of the application to the governing body of the county in which the distributed solar energy generating system is proposed to be located.

(3) When a person submits an application for a DGCPCN to the Commission, the person shall submit a copy of the application to the Power Plant Research Program.

(e) (1) After receiving an application for a DGCPCN but before a determination is made under subsection (f) of this section, the Commission shall provide an opportunity for public comment and hold a public hearing on an

application for a DGCPCN in each county in which any portion of the construction of the distributed solar energy generating system is proposed to be located.

(2) The Commission may hold the public hearing virtually rather than in person if the Commission provides a comparable opportunity for public comment and participation in the hearing.

(f) (1) After an application for a DGCPCN is filed with the Commission and within the time period set by the Commission under subsection (c)(1)(iv) of this section, the Power Plant Research Program shall:

(i) determine whether the distributed solar energy generating system satisfies the standard siting and design requirements for the DGCPCN; and

(ii) notify the Commission in writing as to the determination made under item (i) of this paragraph, including how an application that is determined not to satisfy the standard siting and design requirements can cure the deficiency.

(2) In making a determination under paragraph (1) of this subsection, the Power Plant Research Program shall consider public comments received by the Commission.

(g) (1) Within 60 days after the Power Plant Research Program makes its determination under subsection (f)(1) of this section, the Commission shall schedule a hearing to consider the application for a DGCPCN.

(2) (i) At the hearing under paragraph (1) of this subsection, the Commission shall determine whether the proposed distributed solar energy generating system satisfies the standard siting and design requirements.

(ii) The Commission shall issue a DGCPCN to an applicant to construct a proposed distributed solar energy generating system subject to the standard licensing conditions if the Commission determines that the proposed distributed solar energy generating system satisfies the standard siting and design requirements.

(iii) The Commission may not issue a DGCPCN to an applicant if the proposed distributed solar energy generating system does not satisfy each of the standard siting and design requirements.

(3) In making a determination under this subsection, the Commission shall consider public comments received by the Commission under subsection (e) of this section.

(h) (1) A DGCPCN issued by the Commission under this section shall require the person constructing the distributed solar energy generating system to obtain the following permits and approvals from the county, municipal corporation, or soil conservation district in which the system is to be constructed:

(i) site plan approval;

(ii) stormwater management plan approval;

(iii) erosion and sediment control plan approval;

(iv) all applicable building and electrical permits; and

(v) any additional local permit required by the standard licensing conditions.

(2) The provisions of § 7–207(h) of this subtitle shall apply to any permits and approvals required under paragraph (1) of this subsection.

(i) A DGCPCN issued by the Commission under this section has the same force and effect as a certificate of public convenience and necessity issued under § 7–207 of this subtitle.

§7–207.5. IN EFFECT

// EFFECTIVE UNTIL JUNE 30, 2030 PER CHAPTERS 625 AND 626 OF 2025 //

(a) (1) In this section the following words have the meanings indicated.

(2) "Construction" has the meaning stated in § 7–207 of this subtitle.

(3) (i) "Dispatchable energy generation project" means a generating station or energy storage device that is part of a proposal approved by the Commission under § 7–1206 of this title.

(ii) "Dispatchable energy generation project" includes any associated infrastructure necessary to interconnect the generating station to the electric distribution system.

(4) "Energy storage device" has the meaning stated in § 7–216 of this subtitle.

(5) "Generating station" has the meaning stated in § 7–207 of this subtitle.

(6) "Large capacity energy resource" means a generating station that:

(i) on or before January 1, 2025:

1. has applied to PJM for interconnection approval; or

2. has been approved by PJM for interconnection;

(ii) has a capacity rating equal to or greater than 20 megawatts after accounting for the effective load carrying capability; and

(iii) is part of a proposal approved by the Commission under § 7–1206 of this title.

(7) "Qualifying project" means a dispatchable energy generation project or large capacity energy resource project that has been approved by the Commission under § 7–1208 of this title.

(b) This section applies only to an application for a certificate of public convenience and necessity for the construction of a qualifying project.

(c) Unless a certificate of public convenience and necessity is first obtained from the Commission in accordance with this section or § 7–207 of this subtitle, a person may not construct a qualifying project.

(d) A certificate of public convenience and necessity issued under this section bestows the same rights as a certificate of public convenience and necessity issued under § 7–207 of this subtitle.

(e) A person applying for a certificate of public convenience and necessity under this section shall:

(1) at least 45 days before submitting an application under this section, notify the Commission and the Power Plant Research Program; and

(2) unless otherwise specified under this section, complete all pre–application requirements before submitting an application.

(f) (1) Except as provided in paragraph (2) of this subsection, the timelines associated with the normal pre–application requirements under § 7–207 of

this subtitle, including the requirements under COMAR 20.79.01.04 and COMAR 20.79.01.05, shall be shortened to 45 days for applications submitted under this section.

(2) If the proposed location of a qualifying project is in an overburdened community or underserved community, as defined in § 1–701 of the Environment Article, the timeline for the pre–application requirements under COMAR 20.79.01.04 and COMAR 20.79.01.05 shall remain at 90 days.

(g) Once five applications have been received under this section within a 2–month period, the Commission may delay processing any subsequent applications submitted under this section without impacting the timelines specified in this section.

(h) (1) The Commission shall:

(i) expedite all proceedings for the review and approval of a certificate of public convenience and necessity for a qualifying project; and

(ii) take final action on a certificate of public convenience and necessity for a qualifying project not later than 295 days after the Power Plant Research Program determines that the application is complete in accordance with COMAR 20.79.01.10.

(2) The Commission may extend the time to take final action on a certificate of public convenience and necessity under this section if an applicant fails to comply with the law, regulatory requirements, or Commission orders associated with obtaining a certificate of public convenience and necessity.

(3) Notwithstanding any other law or regulation, in order to meet the required timelines for the issuance of a certificate of public convenience and necessity under this section, the Commission may review and determine whether to approve decommissioning plans for a qualifying project after the certificate of public convenience and necessity has been issued.

(i) In evaluating an application for a certificate of public convenience and necessity under this section, the Commission may contract for the services of independent consultants and experts.

§7–208.

(a) (1) In this section the following words have the meanings indicated.

(2) "Construction" has the meaning stated in § 7–207 of this subtitle.

(3) "Generating station" does not include:

(i) a generating unit or facility that:

1. is used for the production of electricity for the purpose of:

A. onsite emergency backup at a facility when service from the electric company is interrupted due to electric distribution or transmission system failure or when there is equipment failure at a site where critical infrastructure is located; and

B. test and maintenance operations necessary to ensure functionality of the generating unit or facility in the event of an interruption of service from the electric company due to electric distribution or transmission system failure or when there is equipment failure at a site where critical infrastructure is located;

2. is installed with equipment that prevents the flow of electricity to the electric grid;

3. is subject to a permit to construct issued by the Department of the Environment; and

4. is installed at a facility that is part of critical infrastructure if the facility complies with all applicable regulations regarding noise level and testing hours; or

(ii) a combination of two or more generating units or facilities that satisfy item (i) of this paragraph.

(4) "Qualified offshore wind project" has the meaning stated in § 7–701 of this title.

(5) "Qualified submerged renewable energy line" means:

(i) a line carrying electricity supply and connecting a qualified offshore wind project to the transmission system; and

(ii) a line in which the portions of the line crossing any submerged lands or any part of a beach erosion control district are buried or submerged.

(b) This section applies to any person:

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

(2) exercising the right of condemnation in connection with the construction; or

(3) constructing a qualified submerged renewable energy line.

(c) (1) To obtain the certificate of public convenience and necessity required under § 7–207 of this subtitle for construction under this section, a person shall file an application with the Commission at least 2 years before construction of the facility will commence.

(2) The Commission may waive the 2–year requirement on a showing of good cause.

(d) The applicant shall:

(1) include in an application under this section the information that the Commission requests initially; and

(2) furnish any additional information that the Commission requests subsequently.

(e) (1) On the receipt of an application under this section, together with any additional information requested under subsection (d)(2) of this section, the Commission shall provide notice to:

(i) for a proposed overhead transmission line, each owner of land and each owner of adjacent land;

(ii) all interested persons;

(iii) the Department of Agriculture;

(iv) the Department of Commerce;

(v) the Department of the Environment;

(vi) the Department of Natural Resources;

(vii) the Department of Transportation;

(viii) the Department of Planning; and

(ix) the Maryland Energy Administration.

(2) On receipt of an application under this section, and whenever additional information is received under subsection (d)(2) of this section, the Commission shall provide notice immediately or require the applicant to provide notice immediately to:

(i) the governing body of each county or municipal corporation in which any portion of the generating station or the associated overhead transmission lines is proposed to be constructed;

(ii) the governing body of each county or municipal corporation within 1 mile of the proposed location of the generating station or the associated overhead transmission lines;

(iii) each member of the General Assembly representing any part of a county in which any portion of the generating station or the associated overhead transmission lines is proposed to be constructed; and

(iv) each member of the General Assembly representing any part of each county within 1 mile of the proposed location of the generating station or the associated overhead transmission lines.

(3) The Commission shall hold a public hearing on the application as required by § 7–207 of this subtitle after:

(i) the receipt of any additional information requested under subsection (d)(2) of this section that the Commission considers necessary; and

(ii) any publication of notice the Commission considers to be proper.

(4) (i) At the public hearing, the Commission shall ensure presentation of the information and recommendations of the State units specified in paragraph (1) of this subsection and shall allow the official representative of each unit to sit during hearing of all parties.

(ii) Based on the evidence relating to the unit's areas of concern, the Commission shall allow each unit 15 days after the conclusion of the hearing to modify or affirm the unit's initial recommendations.

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

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

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

(iii) deny the certificate; and

(2) notify all interested parties of its decision.

(g) (1) The Commission shall include in each certificate it issues under subsection (f) of this section:

(i) the requirements of the federal and State environmental laws and standards that are identified by the Department of the Environment; and

(ii) the methods and conditions that the Commission determines are appropriate to comply with those environmental laws and standards.

(2) The Commission may not adopt any method or condition under paragraph (1)(ii) of this subsection that the Department of the Environment determines is inconsistent with federal and State environmental laws and standards.

(h) (1) A decision of the Commission regarding the issuance of a certificate requires the vote of a majority of the members of the Commission.

(2) If a majority of the members of the Commission fails to reach agreement on the conditions to be attached to a conditional certificate, the certificate shall be denied.

(i) The grant of a certificate by the Commission to any person under subsection (f) of this section constitutes:

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

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

(j) (1) A county or municipal corporation has the authority to approve or deny any local permit required under a certificate of public convenience and necessity issued under this section.

(2) A county or municipal corporation shall approve or deny any local permits required under a certificate of public convenience and necessity issued under this section:

(i) within a reasonable time; and

(ii) to the extent local laws are not preempted by State law, in accordance with local laws.

(3) A county or municipal corporation may not condition the approval of a local permit required under a certificate of public convenience and necessity issued under this section on receipt of any of the following approvals for any aspect of a generating station, an overhead transmission line, or a qualified lead line proposed to be constructed under the certificate:

(i) a conditional use approval;

(ii) a special exception approval; or

(iii) a floating zone approval.

§7–209.

(a) The Commission shall examine alternatives to the construction of a new transmission line in a service area, including the use of an existing transmission line of another company, if:

(1) the existing transmission line is convenient to the service area; or

(2) the use of the transmission line will best promote economic and efficient service to the public.

(b) In considering the use of an existing transmission line under subsection (a) of this section, the Commission need not consider whether the company that owns the line has a franchise in a service area.

§7–210.

(a) This section does not apply to Baltimore City.

(b) (1) A municipal corporation may not build, maintain, or operate a plant for supplying gas or electricity for other than municipal purposes unless the municipal corporation has a certificate of authority from the Commission.

(2) If the Commission denies the certificate of authority, the municipal corporation may not reapply for a certificate until at least 6 months have elapsed from the date that the Commission denied the previous application.

(c) Subject to subsection (b) of this section, a municipal corporation in the business of supplying electricity for other than municipal purposes may own or finance an interest in an electric plant to secure an entitlement of electricity for its customers.

(d) If the boundaries of a municipal corporation are enlarged by annexation, the municipal corporation may acquire the exclusive right to supply electricity within the annexed area if:

(1) the municipal corporation:

(i) files a petition with the Commission seeking approval to acquire the exclusive right to supply electricity within the annexed area;

(ii) provides a copy of the petition to each electric company whose service territory or electric plant will be affected by the annexation; and

(iii) attaches to the petition a copy of the amendment to the municipal corporation charter that describes the area annexed and a description of the service territory, plant, equipment, and customers of each electric company that is likely to be affected by the annexation; and

(2) the Commission determines that modification of the service territory of an electric company and the transfer of a franchise or right under the franchise is in the public interest.

(e) (1) A municipal corporation that acquires the exclusive right under subsection (d) of this section to supply electricity within an area annexed by the municipal corporation may exercise the right of eminent domain to acquire the existing installed facilities of each electric company within the annexed area that are used solely to supply electricity to the annexed area.

(2) The value of any property taken under paragraph (1) of this subsection shall be determined as of the date of the taking.

§7–211.

(a) The General Assembly finds and declares that it is the policy of the State to encourage the development of clean, carbon–free nuclear power, including development through innovative designs.

(b) The Maryland Energy Administration, in coordination with the Commission and the Department of Natural Resources, shall pursue:

(1) cost–sharing agreements with neighboring states in the PJM region to mitigate the risks of developing new nuclear energy generating stations; and

(2) agreements with federal agencies regarding the siting of small modular reactors:

(i) on federal land; or

(ii) on or near federal facilities, including military and national security installations.

(c) On or before December 1, 2026, the Maryland Energy Administration shall report to the General Assembly, in accordance with § 2–1257 of the State Government Article, on:

(1) the status of the efforts made under subsection (b) of this section, including an assessment of any opportunities to participate with other states, federal agencies, and public or private partners in a multistate procurement of new nuclear energy technology; and

(2) an evaluation and status of the nuclear energy procurement process established under Subtitle 12, Part III of this title.

§7–212.

(a) On or before July 1, 2008, the Commission shall adopt regulations governing the purchase of liquid–immersed distribution transformers by electric companies.

(b) Except as provided in subsection (c) of this section, the regulations shall be consistent with the regulations adopted by the U.S. Department of Energy.

(c) (1) Subject to paragraph (2) of this subsection, the regulations shall ensure that, subject to availability, purchases of liquid–immersed distribution transformers by electric companies occurring on or after January 1, 2009, are based

on the life–cycle cost methodology contained in Section 2 of Standard TP–1–2002 published by the National Electrical Manufacturers Association.

(2) The regulations adopted under this section may not apply to an electric cooperative that supplies electricity to less than 60,000 electric meters in the State.

(d) For electric companies that maintain inventories of distribution transformers in the State for installation in adjacent service areas outside of the State, the Commission may also consider additional inventory management costs as costs for inclusion within the life–cycle cost methodology to be used by electric companies for purposes of this section.

§7–213.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) "Eligible reliability measure" means a replacement of or an improvement in existing infrastructure of an electric company that:

1. is made on or after June 1, 2014;

2. is designed to improve public safety or infrastructure reliability;

3. does not increase the revenue of an electric company by connecting an improvement directly to new customers; and

4. is not included in the current rate base of the electric company as determined in the electric company's most recent base rate proceeding.

(ii) "Eligible reliability measure" includes vegetation management measures that are necessary to meet applicable service quality and reliability standards under this section.

(3) "Fund" means the Electric Reliability Remediation Fund established under subsection (j) of this section.

(4) "System–average interruption duration index" or "SAIDI" means the sum of the customer interruption hours divided by the total number of customers served.

(5) "System–average interruption frequency index" or "SAIFI" means the sum of the number of customer interruptions divided by the total number of customers served.

(b) It is the goal of the State that each electric company provide its customers with high levels of service quality and reliability in a cost–effective manner, as measured by objective and verifiable standards, and that each electric company be held accountable if it fails to deliver reliable service according to those standards.

(c) This section does not apply to small rural electric cooperatives or municipal electric companies.

(d) On or before July 1, 2012, the Commission shall adopt regulations that implement service quality and reliability standards relating to the delivery of electricity to retail customers by electric companies through their distribution systems, using:

(1) SAIFI;

(2) SAIDI; and

(3) any other performance measurement that the Commission determines to be reasonable.

(e) (1) The regulations adopted under subsection (d) of this section shall:

(i) include service quality and reliability standards, including standards relating to:

1. service interruption;

2. downed wire response;

3. customer communications;

4. vegetation management;

5. periodic equipment inspections;

6. annual reliability reporting; and

7. any other standards established by the Commission;

(ii) account for major outages caused by events outside the control of an electric company; and

(iii) for an electric company that fails to meet the applicable service quality and reliability standards, require the electric company to file a corrective action plan that details specific actions the company will take to meet the standards.

(2) The regulations adopted under subsection (d) of this section may include a separate reliability standard for each electric company in order to account for system reliability differentiating factors, including:

(i) system design;

(ii) existing infrastructure;

(iii) customer density; and

(iv) geography.

(3) In adopting the regulations required under subsection (d) of this section, the Commission shall:

(i) consider applicable standards of the Institute of Electrical and Electronics Engineers;

(ii) ensure that the service quality and reliability standards are cost–effective; and

(iii) with respect to standards relating to vegetation management, consider:

1. limitations on an electric company's right to access private property; and

2. customer acceptance of vegetation management initiatives.

(4) A county or municipal corporation may not adopt or enforce a local law, rule, or regulation or take any other action that interferes with, or materially increases the cost of the work of an electric company toward, compliance with the vegetation management standards adopted under subsection (d) of this section.

(f) (1) On or before September 1 of each year, the Commission shall determine whether each electric company has met the service quality and reliability standards adopted by the Commission for that electric company under subsection (d) of this section and under § 7–213.1(e) of this subtitle.

(2) (i) This paragraph does not apply to electric cooperatives.

(ii) The Commission shall take appropriate corrective action against an electric company that fails to meet any or all of the applicable service quality and reliability standards, including the imposition of appropriate civil penalties for noncompliance as provided in § 13–201 of this article.

(iii) A civil penalty assessed under § 13–201 of this article for a violation of the service quality and reliability standards under this section shall be paid into the Fund.

(iv) An electric company may not recover the cost of any civil penalty paid under this section from ratepayers.

(g) (1) On or before April 1 of each year, each electric company shall submit to the Commission an annual performance report that summarizes the actual electric service reliability results for the preceding year.

(2) The annual performance report shall include:

(i) the electric company's average 3–year performance results;

(ii) actual year–end performance measure results;

(iii) an assessment of the results and effectiveness of the reliability objectives, planned actions and projects, programs, and load studies in achieving an acceptable reliability level; and

(iv) annual information that the Commission determines necessary to assess the electric company's efforts to maintain reliable electric service to all customers in the electric company's service territory, including:

1. current year expenditures, labor resource hours, and progress measures for each capital and maintenance program designed to support the maintenance of reliable electric service;

2. the number of outages by outage type;

3. the number of outages by outage cause;

4. the total number of customers that experienced an outage;

5. the total customer minutes of outage time; and

6. to the extent practicable, a breakdown, by the number of days each customer was without electric service, of the number of customers that experienced an outage.

(3) At the request of an electric company, the Commission shall hold a hearing to discuss the annual performance report of the electric company.

(h) This section may not be construed to limit the Commission's authority to adopt and enforce engineering and safety standards for electric companies.

(i) The Commission and each electric company assessed a penalty for a violation of service quality and reliability standards under this section shall establish priorities for targeting remediation efforts to improve electric service quality and reliability for the worst performing feeder lines and other distribution lines and equipment that shall be paid for, in whole or in part, using the Fund, as available and in accordance with subsection (j) of this section.

(j) (1) There is an Electric Reliability Remediation Fund in the Commission.

(2) The purpose of the Fund is to provide resources to target remediation efforts to improve electric service quality and reliability for the worst performing electric distribution lines in the State.

(3) The Commission shall administer the Fund.

(4) (i) The Fund is a special, nonlapsing fund that is not subject to reversion under § 7–302 of the State Finance and Procurement Article.

(ii) The State Treasurer shall hold the Fund separately, and the Comptroller shall account for the Fund.

(5) The Fund consists of:

(i) revenue distributed to the Fund under § 13–201(e)(2) of this article for a violation of this section;

(ii) money appropriated in the State budget to the Fund; and

(iii) any other money from any other source accepted for the benefit of the Fund.

(6) (i) The Fund may be used only for eligible reliability measures.

(ii) The civil penalties collected from an electric company:

1. may be used only for eligible reliability measures and projects in the service territory of that electric company; but

2. may not replace or substitute for money already budgeted for or spent on any project, including an otherwise eligible reliability measure, that the electric company is required to implement under this section or any other law.

(7) (i) The State Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.

(ii) Any investment earnings of the Fund shall be credited to the General Fund of the State.

§7–213.1.

(a) In this section, "special medical needs facility" includes:

(1) an assisted living facility as defined in § 19–1801 of the Health – General Article;

(2) a congregate housing services program under Title 10, Subtitle 2 of the Human Services Article;

(3) a hospice facility as defined in § 19–901 of the Health – General Article;

(4) a hospital as defined in § 19–301 of the Health – General Article or a similar institution;

(5) a nursing home as defined in § 19–1401 of the Health – General Article; or

(6) any other type of facility that the Commission designates in regulation as a special medical needs facility.

(b) The purpose of this section is to:

(1) further the service quality and reliability goals under § 7–213 of this subtitle as they relate to special medical needs facilities; and

(2) encourage the reliable delivery of service to special medical needs facilities.

(c) The Secretary of Health shall:

(1) on or before January 1 of each year, establish and provide a list of special medical needs facilities, including the licensed capacity of each facility, to each electric company for its service territory;

(2) post the list required under item (1) of this subsection on the website of the Maryland Department of Health; and

(3) establish a procedure to allow a special medical needs facility to remove its information from the list established under item (1) of this subsection.

(d) On or before April 1 of each year, an electric company shall submit to the Commission as part of the electric company's annual performance report under § 7–213(g) of this subtitle:

(i) a list of special medical needs facilities that are served by protective devices that activated five or more times during the reporting period, resulting in a power outage;

(ii) a list of special medical needs facilities that experienced a service interruption that:

1. exceeded 4 consecutive hours during the reporting period; and

2. was reported to or was otherwise known to the electric company;

(iii) a list of special medical needs facilities that are served by the 3% of feeders assigned to an electric company's service territory in the State that are identified by the electric company as having the poorest reliability during the reporting period; and

(iv) a description of the electric company's performance in assessing and acting to remediate, and future plans and proposals to improve, the reliability of feeders and protective devices identified under this subsection.

(e) This section does not prohibit the Commission from taking the corrective action authorized in § 7–213(f)(2) of this subtitle against an electric company that fails to meet any or all of the applicable standards.

§7–214.

(a) (1) In this section the following words have the meanings indicated.

(2) "Contact voltage" means a voltage condition that may result in an object or surface being inadvertently energized.

(3) "Contact voltage risk zone" or "CVRZ" means the portions of each electric company's service territory that:

(i) are served by underground electric distribution plant; and

(ii) have substantial pedestrian traffic or population density, whether permanent, seasonal, or varying by time of day.

(4) "Contact voltage survey" means a survey performed by an electric company to detect contact voltage consistent with the electric company's voltage survey plan.

(5) (i) "Electric distribution plant" means all electric company plant used to distribute electricity to its customers.

(ii) "Electric distribution plant" includes covers and protective structures.

(iii) "Electric distribution plant" does not include customer meters and meter enclosures.

(6) "Voltage survey plan" means a plan, submitted by an electric company and approved by the Commission, that governs the electric company's contact voltage detection and testing equipment and voltage detection and testing procedures to be used when conducting contact voltage surveys.

(b) (1) On or before September 1, 2012, each electric company shall file with the Commission for approval:

(i) a list and location map for all CVRZs within its service territory, if applicable; or

(ii) if no CVRZs are designated in its service territory, a voltage survey plan.

(2) Within 30 days after the Commission approves a CVRZ within an electric company's service territory, the electric company shall file its voltage survey plan for Commission approval.

(3) On Commission approval of its voltage survey plan, each electric company shall conduct:

(i) an initial contact voltage survey of each CVRZ within 1 year after the Commission approves an electric company's voltage survey plan; and

(ii) subsequent surveys of each CVRZ as set forth in its voltage survey plan.

(4) Each electric company shall conduct an initial and each subsequent contact voltage survey within each CVRZ of all objects and surfaces that are:

(i) publicly accessible;

(ii) capable of conducting electricity; and

(iii) 1. electric distribution plant;

2. streetlights owned or maintained by the electric company;

3. streetlights and traffic signals owned by a municipal corporation or other unit of government, with the consent of the appropriate authority; and

4. public parks and playgrounds, with the consent of the appropriate authority.

(5) (i) For areas in each electric company's service territory not located in a CVRZ, except for wooden poles, the electric company shall conduct a contact voltage survey on all publicly accessible electric distribution plant and publicly accessible streetlights that the electric company owns or maintains that are capable of conducting electricity:

1. within 3 years after the initial approval of the voltage survey plan; and

2. subsequently as set forth in its voltage survey plan.

(ii) An electric company shall test each streetlight for contact voltage after dark or when the light is illuminated.

(6) At least 60 days before implementing a material change to a voltage survey plan, an electric company shall file an amended voltage survey plan for Commission approval.

(7) The Commission may modify the frequency or scope of any contact voltage survey requirement on a showing of good cause.

(c) (1) Each electric company shall include in its voltage survey plan all equipment used for detecting contact voltage.

(2) (i) The type of each equipment must be certified by an independent test laboratory as being able to reliably detect voltages of 6 to 600 volts.

(ii) Each electric company shall include the certification when filing the voltage survey plan.

(d) (1) Each electric company shall confirm and document all contact voltage detected in its contact voltage survey using a voltmeter and a 500 ohm shunt resistor.

(2) Until a potential contact voltage condition can be confirmed under paragraph (1) of this subsection, each electric company shall make an area safe after detecting a potential contact voltage condition during its contact voltage survey.

(3) If an electric company detects a contact voltage measurement under paragraph (1) of this subsection that is at least 1 volt of alternating current, the electric company shall:

(i) perform a contact voltage survey on all objects and surfaces that are capable of conducting electricity and are publicly accessible within at least 30 feet of the location of the measured contact voltage;

(ii) when electric distribution plant or a street light that the electric company owns or maintains is indicating contact voltage:

1. immediately and continuously make the area safe; and

2. use best efforts to make a permanent repair to mitigate the contact voltage as soon as possible, but not later than 45 days, unless extraordinary circumstances exist and the area continues to be made safe through a temporary measure to mitigate the contact voltage;

(iii) when property that is not owned by the electric company is indicating contact voltage, immediately use best efforts to:

1. make the area safe; and

2. notify the customer or responsible person associated with the premises or customer–owned facility of the unsafe condition and the need for the customer to make a permanent repair to mitigate contact voltage; and

(iv) maintain written records of its actions to make the area safe and mitigate the contact voltage.

(e) (1) On or before April 1 of each year, each electric company shall file a compliance report with the Commission:

(i) describing the results of its contact voltage surveys; and

(ii) summarizing each known contact voltage electric shock and each contact voltage electric shock complaint received from a member of the public, whether the shock affected an individual or an animal.

(2) The Commission shall approve the form of the report.

(f) The Commission may impose a civil penalty under this division for a violation of this subsection.

(g) The Commission may, in its discretion, through order or regulation:

(1) waive or modify any provision of this section; or

(2) impose additional requirements as circumstances require.

§7–215.

(a) This section applies to a solar electric generating facility located in the State that:

(1) has the capacity to produce more than 2 megawatts of electricity; and

(2) is designed to produce electricity for sale on the wholesale market.

(b) (1) Not later than 30 days after selling or otherwise transferring ownership of a solar electric generating facility the owner of the facility shall provide notice of the sale or transfer to:

(i) the county in which the facility is located; and

(ii) the Commission.

(2) The notice under this section shall include the name, address, phone number, and e–mail address of the new owner.

§7–216.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) "Energy storage device" means a resource capable of absorbing electrical energy, storing it for a period of time, and delivering the energy for use at a later time as needed, regardless of where the resource is located on the electric system.

(ii) "Energy storage device" includes all types of electric storage technologies, regardless of their size, storage medium, or operational purpose, including:

1. thermal storage;

2. electrochemical storage;

3. thermo–mechanical storage; and

4. hydrogen–based storage.

(3) "Investor–owned electric company" means an electric company that is not a municipal electric utility or an electric cooperative.

(b) (1) The Commission shall establish an Energy Storage Pilot Program.

(2) The cumulative size of the pilot projects under the program shall be between 5 and 10 megawatts, with a minimum of 15 megawatt–hours.

(c) The Commission shall require each investor–owned electric company to solicit offers to develop energy storage projects for each of the following commercial and regulatory models:

(1) a "utility–only" model under which the electric company would own the project, control the project for grid reliability, and operate the project in wholesale markets or other applications when not providing grid services;

(2) a "utility and third–party" model under which the electric company would own the project and control the project for grid reliability, and a third party would operate the project in wholesale markets or other applications when the project is not providing grid services;

(3) a "third–party ownership" model under which the electric company would:

(i) contract with a project owned by a third party for grid reliability; and

(ii) allow the third party to operate the project in wholesale markets or other applications when the project is not providing grid services; and

(4) a "virtual power plant" model under which:

(i) the electric company would aggregate or use a third–party aggregator to receive grid services from distributed energy storage projects owned by customers or a third party; and

(ii) the projects would be used by the customers or third party for other applications when the projects are not providing grid services.

(d) (1) Each investor–owned electric company shall submit applications for Commission approval to deploy energy storage projects from at least two of the models described under subsection (c) of this section, one of which must be from a model described in subsection (c)(3) or (4) of this section.

(2) A proposed project must be able to meet reasonably the program's timelines and data collection requirements.

(3) An investor–owned electric company shall give priority to projects that directly defer or replace an existing or anticipated distribution need.

(4) An investor–owned electric company may propose a project that does not directly defer or replace an existing or anticipated distribution need if the project includes grid benefits, ratepayer benefits, or otherwise helps meet the State's policy goals.

(5) An investor–owned electric company shall describe in the company's application whether a project demonstrates an opportunity to reduce system costs.

(e) An application under subsection (d) of this section shall include information concerning:

(1) best estimates of costs and savings for the project, including:

(i) estimated permitting and interconnection costs;

(ii) an approximation of the potential benefits, including cost savings;

(iii) an estimate of funds expected to be received from wholesale market transactions;

(iv) an estimate of the value of any distribution investment deferral or replacement due to the project, such as the present value of the costs avoided by installing the storage system;

(v) estimates of other societal benefits achieved by the project, such as incremental reliability and resiliency, greenhouse gas emission reductions, and learning benefits; and

(vi) the estimated impact of each project on the investor–owned electric company's rates for each class of customer;

(2) project location;

(3) project size in watts and duration in watt–hours;

(4) primary and secondary applications;

(5) the business model selected for the project under subsection (c) of this section;

(6) the project developer or engineering, procurement, and construction firm selected for the project;

(7) the type of energy storage technology;

(8) the process the investor–owned electric company used to solicit offers for the project, including feedback on models not selected and an explanation for why the chosen model was selected; and

(9) any other information required by the Commission.

(f) For purposes of the pilot program only, the Commission may determine how to address cost recovery for the models described under subsection (c)(3) and (4) of this section.

(g) For purposes of the pilot program only, the Commission may, on a project–by–project basis, allow:

(1) an investor–owned electric company to own or operate an energy storage device;

(2) an energy storage device owned or operated by an investor–owned electric company to participate in all available PJM wholesale revenue markets in order to realize benefits for investor–owned electric company customers;

(3) full and timely cost recovery by the investor–owned electric company, at the rate of return authorized by the Commission in the most recent base rate proceeding for the investor–owned electric company, taking into account any use of an asset that may not be included in base rates;

(4) an investor–owned electric company to coordinate the use of an energy storage device;

(5) an investor–owned electric company to use fully until the end of the device's useful life, an energy storage device owned or operated by the investor–owned electric company; and

(6) an investor–owned electric company to offer rebates or other incentives for energy storage devices behind or in front of the meter that can be configured to provide temporary backup power to a customer.

(h) (1) The pilot program shall begin on or before June 1, 2019.

(2) (i) On or before April 15, 2020, each investor–owned electric company shall solicit proposals and apply for Commission approval for the first energy storage project required under subsection (d)(1) of this section.

(ii) On or before September 15, 2020, each investor–owned electric company shall solicit proposals and apply for Commission approval for the second energy storage project required under subsection (d)(1) of this section.

(3) On or before April 15, 2021:

(i) the Commission shall determine which projects to approve; and

(ii) each investor–owned electric company shall negotiate contracts to implement projects.

(4) (i) The Commission shall solicit comments from the Maryland Energy Administration, the Office of People's Counsel, and other stakeholders and hold a hearing on each application submitted under subsection (d) of this section.

(ii) The Commission shall approve, approve with modifications, or reject an application submitted under subsection (d) of this section after:

1. receiving comments from the Maryland Energy Administration, the Office of People's Counsel, and other stakeholders and holding a hearing;

2. considering the projected costs and benefits of the projects proposed for inclusion in the pilot program; and

3. determining whether the project is in the public and ratepayer interest.

(5) (i) If the Commission rejects an application, within 3 months after receiving notice of the rejection of an application, the investor–owned electric company shall submit an amended application for Commission approval.

(ii) The Commission shall approve, approve with modifications, or reject an amended application within 3 months after receipt of the amended application.

(6) (i) Except as provided in subparagraph (ii) of this paragraph, on or before February 28, 2022, all approved projects shall become operational.

(ii) The Commission may, for good cause shown, grant an extension from the deadline established in subparagraph (i) of this paragraph for unanticipated project development delays.

(iii) The Commission may establish additional interim deadlines.

(7) (i) On or before July 1 of 2023, 2024, and 2025, an investor–owned electric company shall submit to the Commission, the Maryland Energy Administration, and the Office of People's Counsel information or data concerning:

1. estimated project costs;

2. final project costs;

3. the number of days necessary to achieve project interconnection;

4. the total cost of project interconnection;

5. the number of days necessary to achieve project permitting;

6. the total cost of project permitting;

7. the contractual or committed commercial operation date;

8. the actual commercial operation date;

9. the name and address of the project developer;

10. the location and address of the project;

11. the size of the energy storage project in watts;

12. the duration of the energy storage project in watt–hours;

13. the type of energy storage technology;

14. the identities of any project owners or lessors;

15. any project financing methods;

16. the identity of any entity that provides financing for the project;

17. the length of any project contract;

18. any inverters used for the project, including the type and manufacturer;

19. any manufacturer warranty, including its duration;

20. any developer warranty, including its duration;

21. any technology with which the project is paired;

22. how meters and inverters associated with the project are configured;

23. any system integrator associated with the project;

24. project safety, including battery type and chemistry;

25. any energy management system associated with the project;

26. any energy storage power conversion system associated with the project;

27. the business model selected for the project under subsection (c) of this section;

28. the cost recovery mechanism for the project;

29. the rate of return applied to the project;

30. for a virtual power plant project under subsection (c)(4) of this section, the number and type of customers participating;

31. for a virtual power plant project under subsection (c)(4) of this section, the identity of the aggregator;

32. operational challenges related to multiple stakeholder or third–party use of the storage asset;

33. the types of revenue expected from the project, including any wholesale market revenues;

34. the types of revenue provided by the project, including any wholesale market revenues;

35. the distribution need the project addressed;

36. the amount of time the project is expected to defer the need for an alternative investment;

37. any value of optionality associated with the amount of time the project is expected to defer the need for an alternative investment;

38. the expected load projection before the project was installed;

39. enhanced grid reliability as a result of the project;

40. for a utility and third–party project under subsection (c)(2) of this section, the dollar value of the lease payments from the third party to the utility;

41. for a utility and third–party project under subsection (c)(2) of this section, the duration of the lease agreement between the third party and the utility;

42. any other identified benefits, including resiliency and social benefits;

43. expected and actual storage system cycling;

44. the project's success in switching between applications without challenges or problems;

45. occasions when the project was unable to serve an application;

46. any project delays and the causes for the delays;

47. any emissions reductions expected as a result of the project; and

48. any other information required by the Commission.

(ii) Subject to subparagraph (iv) of this paragraph, an investor–owned electric company shall make all data provided under subparagraph (i) of this paragraph that is not proprietary or confidential available to the public.

(iii) To the extent possible, any annualized data provided under subparagraph (i) of this paragraph shall be seasonally adjusted.

(iv) After receiving comments from all parties, the Commission shall determine:

1. which data related to the projects shall be made available only to the technical staff of the Commission and the Office of People's Counsel; and

2. which data related to the projects shall be made available to the public.

(i) On or before April 1, 2026, if an investor–owned electric company determines that additional time to gather data would provide additional opportunities for learning and justify continuing the pilot program, the Commission may extend the pilot program and delay by a corresponding amount of time the evaluation and report required under subsection (k) of this section.

(j) On or before July 1, 2024, in accordance with § 2–1257 of the State Government Article, the Commission shall submit an interim report to the General Assembly that provides an initial evaluation of the projects approved under this section based on:

(1) project costs;

(2) value streams;

(3) any reduction in system costs;

(4) any issues encountered in the early implementation phase; and

(5) an analysis of any funds generated from the whole market.

(k) (1) Except as provided in subsection (i) of this section, on or before July 1, 2026, in consultation with the Maryland Energy Administration and the Office of People's Counsel, the Commission shall evaluate the projects approved under this section based on:

(i) the overall cost of the project;

(ii) whether the project was optimized through multiple applications;

(iii) whether the project managed to capture different value streams;

(iv) whether the project reduced system costs;

(v) whether the project deferred or replaced entirely a traditional investment on the distribution system, and any value of such a deferral or replacement;

(vi) an analysis of any funds generated from the wholesale market;

(vii) other benefits provided as a result of the project;

(viii) issues that the project encountered in implementation; and

(ix) whether the project altered the quality or availability of electricity supply.

(2) On or before December 31, 2026, the Commission shall report, in accordance with § 2–1257 of the State Government Article, to the General Assembly on its findings under paragraph (1) of this subsection and its recommendations for the continued development of energy storage in the State.

(l) The pilot program may not preclude any other investment by a public service company in energy storage.

(m) (1) Unless the Commission extends the pilot program in accordance with subsection (i) of this section, the pilot program shall terminate on December 31, 2026.

(2) The termination of the pilot program may not affect the cost recovery by an investor–owned electric company for the lifetime of an energy storage project.

§7–216.1.

(a) (1) In this section the following words have the meanings indicated.

(2) "Delivery year" has the meaning stated in the PJM Interconnection glossary.

(3) "Energy storage device" has the meaning stated in § 7–216 of this subtitle.

(4) "Investor–owned electric company" has the meaning stated in § 7–216 of this subtitle.

(5) "Program" means the Maryland Energy Storage Program.

(b) (1) The Commission shall establish targets for the cost–effective deployment of new energy storage devices in the State with a goal of achieving:

(i) 750 megawatts of cumulative energy storage capacity by the end of delivery year 2027;

(ii) 1,500 megawatts of cumulative energy storage capacity by the end of delivery year 2030; and

(iii) 3,000 megawatts of cumulative energy storage capacity by the end of delivery year 2033.

(2) If a target specified in paragraph (1) of this subsection cannot be met cost effectively, the target shall be reduced to the maximum cost–effective amount of energy storage, measured in megawatts, that can be deployed by the end of the delivery year for the target.

(c) (1) The Commission shall establish the Maryland Energy Storage Program.

(2) The Program shall be implemented no later than July 1, 2025.

(3) The Program shall include competitive procurement mechanisms to reach a minimum of 3,000 megawatts of energy storage, or the maximum cost–effective amount of energy storage that can be deployed, by the end of delivery year 2033.

(4) The Program may include:

(i) a system of energy storage credits and market–based incentives designed to:

1. develop a robust energy storage market in the State; and

2. deploy energy storage devices in a cost–effective manner;

(ii) a requirement that investor–owned electric companies:

1. install or contract for energy storage devices; or

2. contract for credits from an energy storage project under § 7–216 of this subtitle;

(iii) a requirement that Program participants make reasonable efforts to apply for all applicable State and federal grants, rebates, tax credits, loan guarantees, and other similar benefits as the benefits become available; or

(iv) any other mechanism or policy that the Commission determines is appropriate to achieve the goal of a robust, cost–effective energy storage system in the State.

§7–216.2.

(a) In this section, "energy storage device" has the meaning stated in § 7–216 of this subtitle.

(b) (1) The General Assembly finds and declares that the State has a goal of reaching at least 150 megawatts of distribution–connected front–of–the–meter energy storage devices.

(2) On or before July 1, 2025, and on or before July 1, 2026, the Commission shall notify each investor–owned electric company of its proportion of the goal established under this subsection, based on:

(i) the electric company's service load; or

(ii) other criteria established by the Commission.

(c) (1) On or before November 1, 2025, the Commission shall require each investor–owned electric company to submit a plan to achieve up to one–third of the proportion of distribution–connected front–of–the–meter energy storage devices necessary to reach the electric company's apportionment of the goal stated in subsection (b) of this section.

(2) On or before November 1, 2026, the Commission shall require each investor–owned electric company to submit a plan for the balance of the proportion of distribution–connected front–of–the–meter energy storage devices necessary to reach the electric company's apportionment of the goal stated in subsection (b) of this section.

(3) On or before May 1, 2026, for plans submitted in accordance with paragraph (1) of this subsection, and on or before May 1, 2027, for plans submitted in accordance with paragraph (2) of this subsection, the Commission shall:

(i) evaluate each plan;

(ii) accept public comments on each plan; and

(iii) issue an order for each plan that:

1. approves the plan;

2. approves the plan with modifications that the Commission considers necessary; or

3. rejects the plan, with an explanation of the reasons for the rejection.

(4) The energy storage devices constructed or procured under each plan shall include a combination of devices owned by the investor–owned electric company and devices owned by a third party, with a goal of 30% of the devices being owned by a third party.

(5) (i) The energy storage devices that are constructed or procured under a plan submitted by November 1, 2025, shall be operational by November 1, 2027.

(ii) The energy storage devices that are constructed or procured under a plan submitted by November 1, 2026, shall be operational by November 1, 2028.

(iii) The Commission may extend a deadline under this paragraph for good cause.

(d) The Commission shall require each plan to demonstrate that the construction or procurement of each energy storage device:

(1) is cost–effective in consideration of a cost–benefit analysis, including a demonstration of any:

(i) avoided or delayed transmission, distribution, and generation costs; and

(ii) avoided emissions in the short term and projected emissions in the long term, measured using the social cost of carbon, as determined by the U.S. Environmental Protection Agency as of January 1, 2025;

(2) can be completed within 18 months after the plan is approved; and

(3) complies with any other factors determined by the Commission.

(e) (1) A developer of a third–party–owned energy storage device constructed in accordance with this section shall ensure that workers are paid not less than the prevailing wage rate determined under Title 17, Subtitle 2 of the State Finance and Procurement Article.

(2) An energy storage device constructed and owned by an electric company shall be constructed by:

(i) employees of the electric company; or

(ii) contractors that shall ensure that workers constructing the energy storage device are paid not less than the prevailing wage rate determined under Title 17, Subtitle 2 of the State Finance and Procurement Article.

(3) (i) An investor–owned electric company shall operate and maintain energy storage devices installed by the electric company in accordance with this section.

(ii) In performing the maintenance and operations required under subparagraph (i) of this paragraph, an investor–owned electric company shall meet with the employee bargaining unit's labor representative and confer in good faith regarding the viability of:

1. allocating maintenance and operations work to current bargaining unit employees;

2. training current bargaining unit employees to perform maintenance and operations work;

3. hiring qualified individuals to perform maintenance and operation work;

4. training newly hired individuals to perform maintenance and operations work; and

5. maintaining and operating storage devices in accordance with paragraph (4) of this subsection.

(4) (i) Subject to subparagraph (ii) of this paragraph, an investor–owned electric company may contract any work under this section not conducted by the company's employee bargaining unit to a qualified contractor.

(ii) An investor–owned electric company shall require a contractor or subcontractor on a project under this section to:

1. pay the area prevailing wage rate determined by the Commissioner of Labor and Industry, including wages and fringe benefits; and

2. offer health care and retirement benefits to the employees working on the project.

(f) (1) Each energy storage project constructed in accordance with this section shall include a proposed decommissioning plan.

(2) The proposed decommissioning plan shall include a plan to maximize the recycling or reuse of all qualifying components of each energy storage device.

(3) The owner or operator of an energy storage device may submit a revised recycling and reuse plan that incorporates emerging recycling and reuse opportunities up to 1 year before executing the decommissioning plan.

§7–217.

(a) (1) In this section the following words have the meanings indicated.

(2) "Electric school bus" means a school bus that is powered exclusively by an electric motor that draws its current from rechargeable storage batteries that are recharged with electricity from an electric vehicle charging station.

(3) "Electric school bus pilot program" means a pilot program conducted by an investor–owned electric company under this section.

(4) "Incremental administrative and operating costs" means the amount by which the cost of administering and operating an electric school bus program exceeds the cost of administering and operating a diesel school bus program.

(5) "Incremental costs of purchasing and deploying electric school buses" means the amount by which the costs of purchasing and deploying electric school buses exceed the costs of purchasing and deploying diesel school buses.

(6) "Interconnection equipment" means a group of components or an integrated system that connects an electric vehicle charging station with the distribution system of an investor–owned electric company.

(7) "Interconnection facilities" means facilities required by an investor–owned electric company to accommodate the interconnection of an electric vehicle charging station.

(8) "Participating school system" means a school system located within an investor–owned electric company's service territory that:

(i) participates in an electric school bus pilot program under an agreement between its school board and an investor–owned electric company; and

(ii) owns its school buses or contracts with another entity for school bus services.

(9) "Program costs" means:

(i) any costs to deploy appropriate electric school bus charging infrastructure that are incurred by an investor–owned electric company in implementing an electric school bus pilot program; and

(ii) rebates paid to a participating school system.

(10) "Rebate" means an incentive provided by an investor–owned electric company to a participating school system that is equal to:

(i) the demonstrable incremental costs of purchasing and deploying electric school buses to participating school systems; and

(ii) the incremental administrative and operating costs incurred by a participating school system in implementing its electric school bus pilot program.

(b) (1) There is an electric school bus pilot program.

(2) The electric school bus pilot program shall be implemented and administered by the Commission and shall operate as provided in this section.

(c) An investor–owned electric company may apply to the Commission to implement an electric school bus pilot program if the pilot program is structured to:

(1) commence on or before October 1, 2024;

(2) provide for the deployment of not fewer than 25 electric school buses;

(3) provide for electric school bus rebates to participating school systems;

(4) limit total rebates to $50,000,000;

(5) allow the investor–owned electric company to use the storage batteries of the electric school buses to access the stored electricity through vehicle–to–grid technology:

(i) except as provided in item (6) of this subsection, without additional compensation to the school system for the electricity; and

(ii) at times when the participating school system determines that the school buses are not needed to transport students;

(6) ensure that if the investor–owned utility uses electricity that a participating school system provides to charge an electric school bus battery, the investor–owned utility replaces that electricity at no cost to the participating school system;

(7) provide for the selection of school systems that apply to participate in the pilot program on the basis of appropriate factors determined by the investor–owned electric company with the approval of the Commission, including the locational benefits that the storage batteries of school buses may bring to the investor–owned electric company;

(8) consider, in determining the appropriate factors under item (7) of this subsection, the health and economic effects on low–income and minority communities;

(9) provide and install the interconnection equipment and interconnection facilities for electric vehicle charging stations;

(10) ensure each electric school bus is equipped with lap and shoulder belts in accordance with recommendations from the National Transportation Safety Board; and

(11) ensure the school board is provided with adequate training and expertise to operate ably electric school buses, electric vehicle charging stations, and associated infrastructure.

(d) A participating school system shall:

(1) when deploying electric school buses, consider criteria that benefit students who are eligible for free and reduced price meals; and

(2) before the delivery of electric school buses, develop a plan for training and retaining any school system employee affected by the electric school bus pilot program.

(e) Subject to the Commission's approval, an investor–owned electric company may recover all reasonable and prudent program costs incurred under an electric school bus pilot program through a mechanism that is reviewed and approved by the Commission.

(f) Subject to the Commission's approval, an investor–owned electric company may establish a pilot tariff or rate to provide service to an electric school bus.

(g) An investor–owned electric company that applies to implement an electric school bus pilot program shall provide to the Commission any information, data, and analysis that the Commission requires.

(h) The Commission shall approve, deny, or approve with modifications an investor–owned electric company's application to implement an electric school bus pilot program.

(i) (1) An investor–owned electric company that establishes an electric school bus pilot program authorized by this section shall, in consultation with each participating school system, by February 1, 2025, and each year thereafter for the duration of the pilot program, report on the status of the pilot program to the Governor, the Commission, and, in accordance with § 2–1257 of the State Government Article, the House Economic Matters Committee and the Senate Finance Committee.

(2) The report required under paragraph (1) of this subsection shall include:

(i) an evaluation of the environmental and health benefits of the pilot program; and

(ii) the financial costs and benefits of implementing the pilot program to the participating school system and the investor–owned utility, including:

1. the deployment, operation, and maintenance of the electric school buses; and

2. the use of vehicle–to–grid technology.

(j) The initial duration of an electric school bus pilot program shall be at least 3 years and may not exceed 5 years.

(k) On the request of an investor–owned electric company, the Commission may authorize an expansion of the scope, deployment, program costs, and duration of the electric school bus pilot program.

§7–218.

(a) (1) In this section the following words have the meanings indicated.

(2) "Agrivoltaics" has the meaning stated in § 7–306.2 of this title.

(3) "Brownfields site" has the meaning stated in § 7–207 of this subtitle.

(4) "Local jurisdiction" includes counties, municipal corporations, and other forms of local government.

(5) "Priority preservation area" means an area certified as a priority preservation area under § 2–518 of the Agriculture Article.

(6) (i) "Project area" means an area within which construction, materials and equipment storage, grading, landscaping, and related activities for a project may occur.

(ii) "Project area" includes one or more contiguous parcels or properties under the same ownership or lease agreement.

(b) This section applies only to a solar energy generating station that:

(1) has the capacity to produce more than 1 megawatt of electricity as measured by the alternating current rating of the station's inverter;

(2) (i) is designed to produce electricity for sale on the wholesale market;

(ii) is a community solar energy generating system under § 7–306.2 of this title; or

(iii) is part of aggregate net metering under § 7–306.3 of this title; and

(3) is not located on a rooftop, carport, or brownfields site or behind the meter of a retail electric customer.

(c) A person may not begin construction of a solar energy generating station unless:

(1) the Commission or, for a solar energy generating station that has the capacity to produce not more than 2 megawatts of electricity as measured by the alternating current rating of the station's inverter, the local jurisdiction verifies that the proposed construction meets all of the site requirements under subsection (f) of this section;

(2) for a solar energy generating station that has the capacity to produce more than 2 megawatts of electricity as measured by the alternating current rating of the station's inverter:

(i) a certificate of public convenience and necessity has been issued in accordance with § 7–207 of this subtitle;

(ii) a distributed generation certificate of public convenience and necessity has been issued in accordance with § 7–207.4 of this subtitle; or

(iii) the construction has been approved by the Commission in accordance with § 7–207.1 of this subtitle; and

(3) the construction has received approval for all local permits required under § 7–207(h) of this subtitle.

(d) (1) A person that submits an application for approval of the construction of a solar energy generating station in accordance with § 7–207, § 7–207.1, or § 7–207.4 of this subtitle shall include with the application written

documentation or other evidence showing that the proposed construction meets the requirements under subsections (f) and (g) of this section.

(2) For a solar energy generating station that has the capacity to produce not more than 2 megawatts of electricity as measured by the alternating current rating of the station's inverter, a person that submits a site development plan to a local jurisdiction shall include with the plan written documentation or other evidence showing that the proposed construction meets the requirements under subsections (f) and (g) of this section.

(e) (1) When verifying whether the documentation provided under subsection (d) of this section meets the requirements under subsections (f) and (g) of this section, the Commission or local jurisdiction shall, if the proposed location of the solar energy generating station is in an area considered to be overburdened and underserved, as defined in § 1–701 of the Environment Article, require the person constructing the solar energy generating station to hold at least two public meetings in the community where the solar energy generating station is to be located to collect community feedback and provide opportunities to address community feedback.

(2) (i) Subject to subparagraph (ii) of this paragraph, the meetings required under paragraph (1) of this subsection shall be held:

1. in the county in which the proposed solar energy generating station is to be located; and

2. within 10 miles of the proposed location of the solar energy generating station.

(ii) If the owner of a proposed solar energy generating station cannot find a meeting location that meets the requirements of subparagraph (i) of this paragraph, the owner may select an alternative location that is as close as practicable to the location of the proposed solar energy generating station.

(f) (1) This subsection does not apply to agrivoltaics.

(2) Except as provided in paragraph (10) of this subsection, an owner of a proposed solar energy generating station:

(i) shall provide a boundary of 150 feet between the solar energy generating station and the nearest wall of a residential dwelling;

(ii) shall provide a boundary of 100 feet between the solar energy generating station and all property lines, not including property lines that bisect the interior of a project area;

(iii) 1. shall provide nonbarbed wire fencing:

A. only on the interior of a landscape buffer or immediately adjacent to a solar energy generating station;

B. that is not more than 20 feet in height;

C. that is only black or green vinyl wire mesh if the owner proposes to use chain link fencing; and

D. that is not less than 50 feet away from the edge of any public road right–of–way; and

2. may use barbed wire fencing around the substations or other critical infrastructure for protection of that infrastructure;

(iv) shall provide for a landscaping buffer or vegetative screening in accordance with paragraph (4) of this subsection;

(v) except for equipment required for interconnection with electric system infrastructure, may not locate any solar array, ancillary equipment, or accessory buildings or facilities within a public road right–of–way;

(vi) 1. shall mitigate the visual impact of the solar energy generating station on a preservation area, rural legacy area, priority preservation area, public park, scenic river or byway, designated heritage area, or historic structure or site listed on or eligible for the National Register of Historic Places or relevant county register of historic places; and

2. A. for a solar energy generating station that has the capacity to produce more than 2 megawatts of electricity as measured by the alternating current of the station's inverter, shall include in the application submitted under subsection (c)(2) of this section a viewshed analysis for any area, structure, or site specified in item 1 of this item; and

B. for a solar energy generating station that has the capacity to produce not more than 2 megawatts of electricity as measured by the alternating current of the station's inverter, shall include in an application for a site development plan a viewshed analysis for any area, structure, or site specified in item 1 of this item; and

(vii) shall provide notice of each proposed solar energy generating station to the emergency response services of each county in which any

portion of the generating station is to be constructed, including a map of the proposed generating station and the proposed location of any solar collector or isolator switch.

(3) A local jurisdiction may not require the use of a berm for a solar energy generating station approved under this section.

(4) The buffer or vegetative screening required in paragraph (2)(iv) of this subsection shall:

(i) be not more than 35 feet wide;

(ii) be provided along:

1. all property lines;

2. locations of the exterior boundary for the solar energy generating station where existing wooded vegetation of 50 feet or more in width does not exist; or

3. an alternative location within the boundary for the solar energy generating station if the owner demonstrates that the alternative location would maximize the visual screening;

(iii) provide for four–season visual screening of the solar energy generating station;

(iv) be placed between any fencing and the public view;

(v) include multilayered, staggered rows of overstory and understory trees and shrubs that:

1. are a mixture of evergreen and deciduous vegetation;

2. are predominantly native to the region;

3. are more than 4 feet in height at planting;

4. are designed to provide screening or buffering within 5 years of planting;

5. may not be trimmed to stunt upward or outward growth or to otherwise limit the effectiveness of the visual screen;

6. conform to the plant size specifications established by the American Standard for Nursery Stock (ANSI Z60.1); and

7. are specified in a landscaping plan prepared by a qualified professional landscape architect;

(vi) be installed as early in the construction process as practicable and before the activation of the proposed solar energy generating station;

(vii) preserve to the maximum extent practicable and supplemented with new plantings where necessary, any forest or hedgerow that exists at a location where visual screening or landscape buffering is required; and

(viii) shall be maintained with a 90% survival threshold for the life of the solar energy generating station through a maintenance agreement that includes a watering plan.

(5) With respect to the site on which a solar energy generating station is proposed for construction, the owner of the solar energy generating station:

(i) shall minimize grading to the maximum extent possible;

(ii) may not remove topsoil from the parcel, but may move or temporarily stockpile topsoil for grading;

(iii) to maintain soil integrity, shall plant native or noninvasive naturalized vegetation and other appropriate vegetative protections that have a 90% survival threshold for the life of the solar energy generating station;

(iv) shall limit mowing and other unnecessary landscaping;

(v) may not use herbicides except to control invasive species in compliance with the Department of Agriculture's weed control program; and

(vi) shall post for the first 5 years of the life of the solar energy generating station a landscaping bond equal to 100% of the total landscaping cost with the county in which the solar energy generating station is located.

(6) (i) Subject to subparagraphs (ii) and (iii) of this paragraph, a local jurisdiction shall hold any landscaping bond required under paragraph (5)(vi) of this subsection for 5 years.

(ii) A local jurisdiction shall release 50% of the landscaping bond if, on inspection, the vegetative protections meet a 90% survival threshold.

(iii) Following the release of a landscaping bond under subparagraph (ii) of this paragraph, the remaining landscaping bond shall be held for an additional 2 years and, on further inspection and confirmation that the vegetative protections continue to meet a 90% survival threshold, shall be released.

(7) Except as required by law, or for safety or emergency, the solar energy generating station may not emit visible light during dusk to dawn operations.

(8) (i) This paragraph does not apply to:

1. equipment necessary for interconnection with the electric system; or

2. solar energy generating stations located on land that is also used for agricultural purposes.

(ii) A proposed solar energy generating station and any accessory structures associated with the station must have an average height of not more than 15 feet.

(9) Setbacks for solar energy generating stations:

(i) shall be measured from the property boundary to the nearest solar array or accessory equipment, buildings, or facilities that generate, maintain, operate, manage, distribute, and transmit electricity; and

(ii) may not apply to any interconnection tie line or facility that connects a solar energy generating station to the electric system.

(10) (i) The owner of a proposed solar energy generating station may provide to the Commission or local jurisdiction written documentation of a siting agreement:

1. entered into with the county in which the proposed solar energy generating station is to be located; and

2. that provides less stringent restrictions than those specified under this subsection.

(ii) If a proposed solar energy generating station provides to the Commission or local jurisdiction written documentation in accordance with subparagraph (i) of this paragraph, the proposed solar energy generating station shall be considered as meeting the requirements of this subsection.

(g) An owner of a solar energy generating station:

(1) shall enter into a decommissioning agreement with the Commission on a form that the Commission provides;

(2) shall post a surety bond with the Commission for not more than 125% of the estimated future cost of decommissioning the solar energy generating station and its related infrastructure, less any salvage value; and

(3) shall execute a securitization bond true–up every 5 years.

(h) (1) Except as provided in paragraphs (3) and (4) of this subsection, a local jurisdiction may not:

(i) adopt zoning laws or other laws or regulations that prohibit the construction or operation of solar energy generating stations; or

(ii) deny site development plans for solar energy generating stations that meet the requirements of subsection (f) of this section.

(2) A local jurisdiction shall:

(i) expedite the review and approval of site development plans for solar energy generating stations if those plans meet the requirements of this section; and

(ii) for solar energy generating stations with a generating capacity of not more than 5 megawatts, as measured by the alternating current rating of the solar energy generating station's inverter, process the site development plan application as a permitted use subject to the review standards in § 4–205 of the Land Use Article.

(3) A ground mounted solar energy generating station with a generating capacity of more than 5 megawatts, as measured by the alternating current rating of the solar energy generating station's inverter, may not be located on any lot, parcel, or tract of land that, as of January 1, 2025, is located within:

(i) a Tier 1 or Tier 2 mapped locally designated growth area adopted under § 1–506 of the Land Use Article;

(ii) a medium density residential area or high density residential area, as defined in § 5–1601 of the Natural Resources Article; or

(iii) a mixed–use area with a residential component.

(4) (i) The total combined number of solar energy generating stations that may be approved for construction in a priority preservation area that was established before January 1, 2025, shall:

1. be limited in area to 5% of the total acreage of the priority preservation area;

2. be located in the project area within the priority preservation area; and

3. meet all requirements under this section.

(ii) The prohibitions in paragraph (1) of this subsection do not apply to the remaining 95% of a priority preservation area once the 5% limitation under subparagraph (i) of this paragraph has been achieved for the priority preservation area.

(iii) A county shall report to the Commission when the 5% limitation under subparagraph (i) of this paragraph has been achieved for a priority preservation area.

(i) Nothing in this section may be construed to add any additional limitations to the authority of the Commission in the approval process for an application for a certificate of public convenience and necessity.

§7–219.

(a) (1) In this section the following words have the meanings indicated.

(2) "Energy storage device" has the meaning stated in § 7–216 of this subtitle.

(3) "Local jurisdiction" includes counties, municipal corporations, and other forms of local government.

(b) A person may not begin construction of a front–of–the–meter energy storage device unless the construction has been approved by the Commission in accordance with regulations adopted under this section.

(c) On receipt of an application for approval of the construction of a front–of–the–meter energy storage device under this section, the Commission shall provide

immediate notice or require the applicant to provide immediate notice of the application to:

(1) the governing body of each county or municipal corporation in which any portion of the energy storage device is proposed to be constructed;

(2) the governing body of each county or municipal corporation within 1 mile of the proposed location of the energy storage device;

(3) each member of the General Assembly representing any part of a county in which any portion of the energy storage device is proposed to be constructed;

(4) each member of the General Assembly representing any part of a county within 1 mile of the proposed location of the energy storage device; and

(5) the affected communities that are within 1 mile of the proposed location of the energy storage device.

(d) When reviewing an application for approval under this section, the Commission shall:

(1) if the proposed location of the front–of–the–meter energy storage device is in an area considered to be overburdened and underserved, as defined in § 1–701 of the Environment Article, require the applicant to hold at least two public meetings in the community where the energy storage device is to be located; and

(2) exempt a front–of–the–meter energy storage device that is located within the boundaries of an existing electricity generating station from the meeting requirements of this subsection.

(e) (1) An owner of a proposed front–of–the–meter energy storage device that will not be constructed at a commercial or industrial location:

(i) 1. shall provide nonbarbed wire fencing:

A. around the energy storage device; and

B. that is not more than 20 feet in height; and

2. may use barbed wire fencing around the substations or other critical infrastructure for protection of that infrastructure; and

(ii) shall provide for a landscaping buffer or vegetative screening if required by the local jurisdiction.

(2) A local jurisdiction may not require the use of a berm for a front–of–the–meter energy storage device approved under this section.

(3) The buffer required in paragraph (1)(ii) of this subsection shall:

(i) be not more than 25 feet in depth; and

(ii) provide for four–season visual screening of the front–of–the–meter energy storage device.

(4) With respect to the site on which a front–of–the–meter energy storage device is proposed for construction, the owner of the energy storage device:

(i) shall minimize grading to the maximum extent possible;

(ii) may not remove topsoil from the parcel, but may move or temporarily stockpile topsoil for grading; and

(iii) may not use herbicides except to control invasive species in compliance with the Department of Agriculture's weed control program.

(f) (1) A local jurisdiction may not:

(i) adopt zoning laws or other laws or regulations that prohibit the construction or operation of front–of–the–meter energy storage devices; or

(ii) deny site development plans for front–of–the–meter energy storage devices that meet the requirements of subsection (e) of this section.

(2) A local jurisdiction shall:

(i) expedite the review and approval of site development plans for front–of–the–meter energy storage devices if those plans meet the requirements of this section; and

(ii) adopt standard processes for the review and approval of site development plans for the construction of front–of–the–meter energy storage devices.

(g) The Commission may waive or modify the requirements under subsections (c), (d), and (e) of this section for good cause.

(h) The Commission shall adopt regulations to carry out this section.

§7–220.

(a) In this part the following words have the meanings indicated.

(b) "Behind–the–meter program" means a program that impacts the customer side of the utility meter.

(c) "Beneficial electrification" means the replacement of the direct use of fossil fuels in buildings with the use of electricity in a manner that:

(1) reduces overall lifetime greenhouse gas emissions;

(2) reduces customers' energy costs; or

(3) enables better management of the electric distribution system.

(d) "Carbon dioxide equivalent" means the measurement of a given weight of a greenhouse gas that has the same global warming potential, measured over a specific period of time, as 1 metric ton of carbon dioxide.

(e) "Demand response program" means a program established by an electric company, an electricity supplier, or a third party that promotes changes in electric usage by customers from their normal consumption patterns in response to:

(1) changes in the price of electricity over time; or

(2) incentives designed to:

(i) induce lower electricity use at times of high wholesale market prices; or

(ii) ensure system reliability.

(f) "Department" means the Department of Housing and Community Development.

(g) "Energy efficiency" means the use of less energy to perform the same task or produce the same result.

(h) "Front–of–meter community program" means a program that:

(1) is separate from front–of–meter utility programs;

(2) impacts the utility side of the meter; and

(3) directly benefits a set of customers.

(i) "Front–of–meter utility program" means a program that impacts the utility side of a meter and benefits all utility customers.

(j) "Greenhouse gas" includes:

(1) carbon dioxide;

(2) methane;

(3) nitrous oxide;

(4) hydrofluorocarbons;

(5) perfluorocarbons; and

(6) sulfur hexafluoride.

(k) "Greenhouse gas emissions reduction" means a reduction in greenhouse gas emissions, measured in metric tons of carbon dioxide equivalents, including:

(1) greenhouse gas emissions from the generation of electricity delivered to and consumed in the State; and

(2) line losses from the transmission and distribution of electricity, regardless of whether the electricity is generated in the State or imported.

(l) "Low–income program" means a program that delivers energy efficiency, conservation, and greenhouse gas emissions reduction measures to reduce utility expenses for building owners, managers, and tenants of housing with residents who qualify for the Department's low–income assistance programs, including:

(1) the EmPOWER Maryland Limited Income Energy Efficiency Program;

(2) the Multifamily Energy Efficiency and Housing Affordability Program; and

(3) the Weatherization Assistance Program.

(m) "Low–income residential" means a community, building, or household with residents that:

(1) have incomes below 250% of the federal poverty level as determined by the federal census; or

(2) meet the eligibility criteria approved by the Commission for low–income programs.

(n) "Midsize electric cooperative" means an electric cooperative, including a member–regulated cooperative, that:

(1) serves fewer than 75,000 customers in its distribution territory; but

(2) is not a small rural electric cooperative.

(o) "Nonenergy program" means a program with greenhouse gas emissions reduction benefits that are primarily nonenergy–based.

(p) "Plan" means any combination of behind–the–meter programs, front–of–meter community programs, front–of–meter utility programs, or nonenergy programs that:

(1) achieve greenhouse gas emissions reductions through energy efficiency, conservation, demand response, and beneficial electrification; and

(2) include a cost recovery proposal.

(q) "Task Force" means the Green and Healthy Task Force established under § 7–319 of this title.

§7–221.

The General Assembly finds and declares that energy efficiency is:

(1) among the least expensive ways to meet the energy demands of the State;

(2) a means of affordable, reliable, and clean energy for consumers of Maryland; and

(3) one method to achieve Maryland's climate commitments for reducing statewide greenhouse gas emissions, including those required under Title 2, Subtitle 12 of the Environment Article.

§7–222.

(a) Subject to review and approval by the Commission, each electric company, each gas company other than a gas company subject to § 4–207(a) of this article, the Department, and, if required in accordance with subsection (c) of this section, each midsize electric cooperative shall develop and implement programs and services in accordance with §§ 7–223, 7–224, and 7–225 of this subtitle to encourage and promote the efficient use and conservation of energy, demand response, and beneficial electrification by consumers, electric companies, gas companies, and the Department in support of the greenhouse gas emissions reduction goals and targets required under Title 2, Subtitle 12 of the Environment Article.

(b) As directed by the Commission, each gas company subject to § 4–207(a) of this article, each municipal electric or gas utility, each small rural electric cooperative, and, if required in accordance with subsection (c) of this section, each midsize electric cooperative shall include energy efficiency and conservation, demand response, and beneficial electrification programs or services as part of their service to their customers.

(c) (1) In accordance with this subsection, each midsize electric cooperative shall be subject to either subsection (a) or subsection (b) of this section.

(2) Each midsize electric cooperative shall offer programs and services to customers in accordance with:

(i) subsection (b) of this section through December 31, 2026; and

(ii) on or after January 1, 2027, and as the Commission directs, either subsection (a) or subsection (b) of this section.

(3) Not later than October 1, 2025, the Commission shall determine if it is in the public interest for a midsize electric cooperative to offer programs and services to customers in accordance with subsection (a) or subsection (b) of this section starting January 1, 2027, and for all subsequent years.

(4) Each midsize electric cooperative shall provide the following information to the Commission to assist in making a determination under paragraph (3) of this subsection:

(i) anticipated costs and bill impacts;

(ii) a description of the anticipated program offerings;

(iii) the anticipated cost–effectiveness of the residential, commercial, and industrial sector subportfolios based on the cost–effectiveness tests in § 7–225(d)(3)(i) of this subtitle;

(iv) the anticipated electricity savings and greenhouse gas emissions reductions; and

(v) any other information the Commission requires.

(5) The information provided to the Commission under paragraph (4) of this subsection shall be based on a plan to offer programs and services to customers that complies with the requirements of an electric company subject to subsection (a) of this section for the 3–year program cycle starting January 1, 2027.

(6) When making a public interest determination under paragraph (3) of this subsection the Commission, at a minimum, shall consider the requirements under § 7–225(d)(3) of this subtitle that are considered when approving a plan of an electric company that is subject to subsection (a) of this section.

(7) Starting October 1, 2025, if the Commission determines that it is in the public interest for a midsize electric cooperative to be subject to subsection (a) of this section, the midsize electric cooperative shall comply with all requirements of an electric company subject to subsection (a) of this section for program cycles starting on and after January 1, 2027.

(8) On or before March 1 each year, starting in 2026, each midsize electric cooperative directed by the Commission to include programs or services under subsection (b) of this section shall submit to the Commission a report quantifying the gains in energy efficiency and reductions in greenhouse gas emissions achieved during the previous year.

(d) The Commission shall encourage and promote the efficient use and conservation of energy in support of the greenhouse gas emissions reduction goals and targets required under Title 2, Subtitle 12 of the Environment Article, established by the Commission under § 7–223(b) of this subtitle, and specified in § 7–224(a)(2) of this subtitle by:

(1) requiring each electric company and gas company to establish any program or service that the Commission determines to be appropriate and cost–effective;

(2) adopting rate–making policies that provide, through a surcharge line item on customer bills:

(i) full cost recovery of reasonably incurred costs for programs and services established under item (1) of this subsection, including full recovery on a current basis on or before January 1, 2028;

(ii) on or before December 31, 2032, the elimination of any unpaid costs and unamortized costs that:

1. A. existed on December 31, 2024; or

B. were incurred before January 1, 2028; and

2. were accrued for the purpose of achieving statutory targets for annual incremental gross energy savings;

(iii) compensation for any unpaid costs and unamortized costs under item (ii) of this item at not more than each electric company's and each gas company's average cost of outstanding debt; and

(iv) reasonable financial performance incentives and penalties for investor–owned electric companies and gas companies, as appropriate; and

(3) ensuring that adoption of electric customer choice under Subtitle 5 of this title and gas customer choice under Subtitle 6 of this title does not adversely impact these goals and targets.

(e) The Commission shall, by regulation or order, require each electric company and each gas company subject to subsection (a) of this section that has submitted to the Commission, on or before July 1, 2024, a plan for achieving electricity or gas savings and demand reduction targets to disclose the following information in a form and format readily understandable to the average customer:

(1) that the surcharge imposed in accordance with subsection (d) of this section includes the cost of paying down the unpaid costs and unamortized costs that were accrued over time by programs and services required by the Commission dating back to 2008; and

(2) the period of time that the surcharge will include excess charges to pay down the unpaid costs and unamortized costs.

§7–223.

(a) On or before January 1, 2025, and on or before January 1 every 3 years, starting in 2027, the Commission shall, by regulation or order, require each electric company and each gas company subject to § 7–222(a) of this subtitle to develop and implement a plan that:

(1) covers appropriate ratepayer classes;

(2) starting in 2027, covers a 3–year program cycle; and

(3) achieves the greenhouse gas emissions reduction target established for the electric company or gas company under subsection (b) of this section through cost–effective energy efficiency and conservation programs and services, demand response programs and services, and beneficial electrification programs and services.

(b) (1) For 2025 and 2026, and for each 3–year program cycle starting in 2027, the Commission shall establish a greenhouse gas emissions reduction target for each electric company and each gas company subject to § 7–222(a) of this subtitle as provided in this subsection.

(2) When establishing greenhouse gas emissions reduction targets under this subsection, the Commission shall measure the greenhouse gas emissions from electricity and gas, and the intensities of those emissions, using current data and projections from the Department of the Environment.

(3) The greenhouse gas emissions reduction targets established under this subsection shall be measured:

(i) in metric tons; and

(ii) relative to the greenhouse gas emissions associated with the electric company's or gas company's weather–normalized gross retail sales and losses in a baseline year, as determined by the Commission.

(4) By the dates specified in § 7–225(a) of this subtitle, the Commission shall establish greenhouse gas emissions reduction targets for each electric company plan that will achieve at least the greenhouse gas emissions reduction equivalent, measured on a lifecycle basis using the emission intensities under paragraph (2) of this subsection, of the following annual electricity savings percentages, calculated as a percentage of the electric company's 2016 weather–normalized gross retail sales and electricity losses:

(i) 2.0% in 2024;

(ii) 2.25% each year in 2025 and 2026; and

(iii) 2.5% each year in 2027 and after.

(5) On or before January 1, 2025, and on or before January 1 every 3 years, starting in 2027, the Commission shall establish greenhouse gas emissions reduction targets for each gas company plan that will achieve at least the greenhouse gas emissions reduction equivalent, measured on a lifecycle basis using the emission intensities under paragraph (2) of this subsection, of the gas savings achieved by the gas company for the 2021–2023 program cycle.

(6) The Commission shall take into consideration the most recent final plan adopted under § 2–1205 of the Environment Article when establishing the greenhouse gas emissions reduction targets under this subsection.

(7) For 2025 and 2026:

(i) the Commission shall, after making appropriate findings, determine whether existing electric company and gas company plans must be modified to comply with § 7–225(d) of this subtitle; and

(ii) electric companies and gas companies:

1. shall provide information as required by the Commission to assist in making the determination under item (i) of this paragraph; and

2. are only required to file new plans in accordance with this section if directed by the Commission.

(c) The Commission may give priority to long–lived greenhouse gas emissions reduction measures in the plans by establishing a minimum weighted average measure life for the plan of each electric company and gas company.

(d) Contributions to greenhouse gas emissions reduction goals and targets in a plan of an electric company or a gas company:

(1) may, notwithstanding § 7–222(d)(2) of this subtitle, include recovery of the reasonable and prudent costs from programs that are not behind–the–meter programs in a base rate proceeding, subject to Commission approval; and

(2) may not include the increased adoption of electric vehicles.

(e) Beginning January 1, 2025, at least 80% of the greenhouse gas emissions reductions counted toward each electric company's and each gas company's greenhouse gas emissions reduction targets established under this section shall come from behind–the–meter programs, which may include deployment of energy storage facilities.

§7–224.

(a) (1) Beginning January 1, 2025, and on or before January 1 every 3 years, starting in 2027, the Department shall procure or provide to low–income individuals energy efficiency and conservation programs and services, demand response programs and services, and beneficial electrification programs and services that achieve the greenhouse gas emissions reduction targets established for the Department under paragraph (2) of this subsection.

(2) For the period 2025–2033, the programs and services required under paragraph (1) of this subsection shall be on a trajectory to achieve greenhouse gas reductions after 2027 of at least 0.9% of the baseline determined under subsection (b) of this section.

(3) (i) When establishing greenhouse gas emissions reduction targets under this subsection, the Commission shall measure the greenhouse gas emissions from electricity using current data and projections from the Department of the Environment.

(ii) The greenhouse gas emissions reduction targets established under this subsection shall be measured in metric tons.

(4) The greenhouse gas reductions achieved to meet the targets established under paragraph (2) of this subsection shall count toward the achievement of the greenhouse gas reduction target established under § 7–223(b) of this subtitle.

(5) The target greenhouse gas savings shall be achieved based on the 3–year average of the Department's plan submitted in accordance with subsection (d) of this section.

(6) For 2025 and 2026:

(i) the Commission shall, after making appropriate findings, determine whether the Department's existing 2024–2026 plan must be modified to comply with:

1. the targets established in this subsection; and

2. § 7–225(d) of this subtitle; and

(ii) the Department:

1. shall provide information as required by the Commission to assist in making the determination in item (i) of this paragraph; and

2. is only required to file new plans in accordance with subsection (d) of this section and § 7–225 of this subtitle if directed by the Commission.

(b) As a baseline for determining greenhouse gas emissions reduction targets under this section, the Commission shall use the greenhouse gas emissions resulting from the direct consumption of gas and electricity by low–income residential households in 2016, as determined by the Department of the Environment.

(c) When calculating the achievement of greenhouse gas emissions reduction targets under this section, the Department may procure or provide savings that are achieved through all funding sources, to the extent that the savings from those funding sources are achieved:

(1) in a manner consistent with requirements of the U.S. Department of Energy; or

(2) in a manner otherwise consistent with the energy savings requirements applicable to those funding sources.

(d) If directed by the Commission in 2024, and on or before September 1 every 3 years, starting in 2026, the Department shall submit its plans for any programs or services procured or provided under subsection (a) of this section to the Commission for review and approval under § 7–225 of this subtitle.

(e) For weatherization of leased or rented residences, the Department shall adopt regulations to ensure that:

(1) the benefits of weatherization assistance, including utility bill reduction and preservation of affordable housing stock, accrue primarily to low–income tenants occupying a leased or rented residence; and

(2) the rent on the residence is not increased and the tenant is not evicted as a result of weatherization provided under this section.

(f) The programs and services provided under subsection (a) of this section may not use thermal insulating materials for building elements, including walls, floors, ceilings, attics, and roof insulation, that contain formaldehyde if the formaldehyde:

(1) was intentionally added; or

(2) is present in the product at greater than 0.1% by weight.

(g) The Department's approved contractors used for the programs under this section shall meet the following job requirements:

(1) pay at least 150% of the State minimum wage;

(2) provide career advancement training;

(3) afford employees the right to bargain collectively for wages and benefits;

(4) provide paid leave;

(5) be considered covered employment for purposes of unemployment insurance benefits in accordance with Title 8 of the Labor and Employment Article;

(6) entitle the employee to workers' compensation benefits in accordance with Title 9 of the Labor and Employment Article;

(7) be compliant with federal and State wage and hour laws for the previous 3 years;

(8) offer employer–provided health insurance benefits with monthly premiums that do not exceed 8.5% of the employee's net monthly earnings; and

(9) offer retirement benefits.

(h) (1) The Department shall develop a plan to coordinate funding sources and leverage the greatest funding possible to support a whole home approach by addressing:

(i) health and safety upgrades;

(ii) weatherization;

(iii) energy efficiency; and

(iv) other general maintenance for low–income housing.

(2) The plan shall coordinate funding among:

(i) the Strategic Energy Investment Fund;

(ii) federal weatherization assistance programs;

(iii) ratepayer contributions to:

1. the EmPOWER Maryland Limited Income Energy Efficiency Program; and

2. the Multifamily Energy Efficiency and Housing Affordability Program;

(iv) the Maryland Affordable Housing Trust Fund;

(v) U.S. Department of Housing and Urban Development programs, including:

1. Community Development Block Grants;

2. the Home Investment Partnership Grants Program; and

3. Lead Hazard Control and Healthy Homes Grants;

(vi) U.S. Department of Agriculture programs, including the Home Repair Program;

(vii) the Healthy Homes for Healthy Kids Program;

(viii) the Energy Efficiency and Conservation Block Grant program;

(ix) State appropriations;

(x) funds from the federal Inflation Reduction Act of 2022; and

(xi) any other source of funding that the Department or the Task Force identifies.

(3) The Department shall ensure, for any whole home retrofits associated with weatherization provided or developed under the plan, that:

(i) there is a single point of contact for low–income residential households; and

(ii) services are offered in any language needed by the low–income residential households.

(4) The Department shall collaborate with the members of the Task Force and identify other interested parties to develop the plan.

(5) On or before December 31, 2024, the Department shall submit the plan to the Governor and, in accordance with § 2–1257 of the State Government Article, the General Assembly.

(i) The Department, the Maryland Energy Administration, and other State units shall apply for all federal funding that may become available to carry out this section.

(j) (1) The Department shall collaborate with the members of the Task Force to develop a plan, including a budget, a timeline, and potential funding sources, to provide energy efficiency retrofits to all low–income households by 2032.

(2) On or before December 1, 2024, the Department, in collaboration with the Task Force, shall submit the plan to the General Assembly, in accordance with § 2–1257 of the State Government Article.

§7–225.

(a) As soon as possible in 2024, and at least 8 months before the filing deadline for plans after 2024, the Commission shall issue an order that determines the greenhouse gas emissions reduction targets required under § 7–223(b) of this subtitle and the greenhouse gas emissions reductions required under § 7–224(a)(2) of this subtitle.

(b) (1) (i) If directed by the Commission in 2024, and on or before July 1 every 3 years, starting in 2026, each electric company and each gas company subject to § 7–222(a) of this subtitle that submitted a plan for achieving electricity savings and demand reduction targets to the Commission before July 1, 2024, and the Department, shall consult with the technical staff of the Commission, the Office of People's Counsel, the Maryland Energy Administration, and the Department of the Environment regarding the design and adequacy of its plans for achieving the

greenhouse gas emissions reduction targets established by the Commission under § 7–223(b) of this subtitle and specified in § 7–224(a)(2) of this subtitle.

(ii) On or before October 1, 2024, and on or before July 1 every 3 years, starting in 2026, each electric company and each gas company subject to § 7–222(a) of this subtitle that did not submit a plan for achieving electricity savings and demand reduction targets to the Commission before July 1, 2024, shall comply with the consulting requirements under subparagraph (i) of this paragraph.

(2) Each electric company and each gas company subject to § 7–222(a) of this subtitle shall provide the technical staff of the Commission, the Office of People's Counsel, the Maryland Energy Administration, and the Department of the Environment with any additional information regarding its plan, as requested.

(c) (1) (i) If directed by the Commission in 2024, and on or before September 1 every 3 years, starting in 2026, each electric company and each gas company subject to § 7–222(a) of this subtitle that submitted a plan for achieving electricity savings and demand reduction targets to the Commission before July 1, 2024, and the Department, shall submit its plan to the Commission.

(ii) On or before December 1, 2024, and on or before September 1 every 3 years, starting in 2026, each electric company and each gas company that did not submit a plan for achieving electricity savings and demand reduction targets to the Commission before July 1, 2024, shall submit its plan to the Commission.

(2) Each plan shall detail a proposal for achieving greenhouse gas emissions reduction targets for 3 subsequent calendar years.

(3) (i) Each plan shall:

1. include:

A. a description of the proposed programs and services;

B. anticipated costs;

C. projected benefits, including greenhouse gas emissions reductions, electricity savings, and gas savings; and

D. any other information requested by the Commission; and

2. address residential, commercial, and industrial sectors as appropriate, including low–income communities.

(ii) A plan of the Department shall include:

1. a definition of "low–income individual" to be used in the procurement or provision of energy efficiency, conservation, and greenhouse gas emissions reduction programs and services;

2. a description of the steps proposed to ensure insulation materials meet the requirements under § 7–224 of this subtitle; and

3. a proposed average lifetime measure threshold that:

A. encourages the delivery of insulation and weatherization measures; and

B. is developed through a stakeholder engagement process.

(iii) A plan of an electric company shall include the provision or procurement of programs and services for residential beneficial electrification.

(d) (1) The Commission shall review the plan of each electric company, each gas company, and the Department to determine whether the plan is adequate and cost–effective in achieving the greenhouse gas emissions reduction targets established by the Commission under §§ 7–223(b) and 7–224(a)(2) of this subtitle.

(2) The Commission shall consider any written findings provided by the Maryland Energy Administration, the Department of the Environment, and the Office of People's Counsel regarding the design and adequacy of the plan.

(3) Subject to paragraph (4) of this subsection, in approving, modifying, or denying the plan of an electric company or a gas company, the Commission shall consider:

(i) the cost–effectiveness of the residential, commercial, and industrial sector subportfolios by using:

1. the primary State jurisdiction–specific test, as developed, updated, or approved by the Commission, to determine the cost–effectiveness of a program or service prospectively, including consideration of:

A. participant nonenergy benefits;

B. utility nonenergy benefits; and

C. societal nonenergy benefits; and

2. a total resource cost test to compare the electricity savings and demand reduction targets of the program or service with the results of similar programs or services implemented in other jurisdictions, including:

A. participant nonenergy benefits; and

B. utility nonenergy benefits;

(ii) the impact on rates of each ratepayer class;

(iii) the impact on jobs;

(iv) the impact on the environment; and

(v) the impact on the greenhouse gas emissions reduction targets specified in Title 2, Subtitle 12 of the Environment Article, established by the Commission under §§ 7–223(b) and 7–224(a)(2) of this subtitle.

(4) Nonenergy benefits considered under paragraph (3) of this subsection shall be quantifiable and directly related to a program or service.

(5) (i) In approving, modifying, or denying the plan of the Department, the Commission shall consider:

1. subject to subparagraph (ii) of this paragraph, the cost–effectiveness of the plan by using the primary State jurisdiction–specific test, as developed, updated, or approved by the Commission;

2. the impact on rates of each ratepayer class;

3. the impact on jobs;

4. the impact on the environment; and

5. the impact on the greenhouse gas emissions targets specified in Title 2, Subtitle 12 of the Environment Article, established by the Commission under § 7–223(b) of this subtitle, and specified in § 7–224(a)(2) of this subtitle.

(ii) The programs and services offered by the Department are not required to be cost–effective.

(e) The Department of the Environment shall prepare and submit to the Commission an analysis regarding the adequacy of the plan in supporting the State's greenhouse gas emissions reduction goals specified in Title 2, Subtitle 12 of the Environment Article, established by the Commission under § 7–223(b) of this subtitle, and required under § 7–224(a)(2) of this subtitle.

§7–226.

(a) (1) Each electric company, each gas company, and the Department shall provide to the Commission every 6 months an update on plan implementation and progress made toward achieving the greenhouse gas emissions reduction targets established by the Commission under § 7–223(b) of this subtitle and required under § 7–224(a)(2) of this subtitle.

(2) The Commission shall monitor and analyze the impact of each program and service to ensure that the outcome of each program and service provides the best possible results.

(3) In monitoring and analyzing the impact of a program or service under paragraph (2) of this subsection, if the Commission finds that the outcome of the program or service may not be providing the best possible results, the Commission shall direct the electric company, the gas company, or the Department to include in its next update under paragraph (1) of this subsection specific measures to address the findings.

(b) (1) At least once each year, each electric company and each gas company shall notify affected customers of the energy efficiency and conservation and greenhouse gas reduction charges imposed and benefits conferred.

(2) The notice shall be provided by publication on the company's website and inclusion with billing information such as a bill insert or bill message.

(c) On or before May 1 each year, the Commission shall report, in accordance with § 2–1257 of the State Government Article, to the General Assembly on:

(1) the status of programs and services approved under this subtitle, including an evaluation of the impact of the programs and services that are directed to low–income communities and other particular classes of ratepayers;

(2) a recommendation for the appropriate funding level to adequately fund these programs and services;

(3) the per capita electricity consumption and the winter and summer peak demand for the previous calendar year; and

(4) beginning in 2026, progress made toward reducing greenhouse gas emissions in accordance with §§ 7–223 and 7–224 of this subtitle.

§7–227.

(a) Notwithstanding any other law, the Commission may not require or allow an electric company or a gas company to require a customer to authorize the electric company or gas company to control the amount of the customer's electricity usage or gas usage.

(b) A customer may provide consent to participate in a program of an electric company or a gas company that provides direct load control or other utility manipulation of a customer's electricity or gas usage.

§7–228.

(a) Each electric company and each gas company shall promote the availability of federal and State rebates, tax credits, and incentives that can be used to support energy efficiency investments, energy efficient and non–fossil–fuel–powered appliances and cooking equipment, breaker box upgrades, and portable heating and cooling equipment.

(b) The Commission shall adopt regulations to carry out this section.

§7–301.

(a) A person may not furnish or put in use for revenue billing purposes a gas meter or electric meter unless the Commission has authorized the meter's use.

(b) (1) Each gas company and electric company shall maintain suitable equipment, approved by the Commission, for testing the accuracy of a gas meter or electric meter furnished by the company for use by its customers.

(2) The gas company or electric company shall test a customer's meter with the equipment in accordance with § 7–302 of this subtitle.

(3) A small rural electric cooperative described in § 7–502(a) of this title may satisfy this section by demonstrating that the electric meters which it furnishes to customers comply with the standards of the utility regulatory body of the state in which the cooperative has its principal place of business.

(c) (1) This subsection applies to:

(i) a new residential multiple occupancy building;

(ii) a new shopping center; or

(iii) a new housing unit that is constructed, managed, operated, developed, or subsidized by a local housing authority established under Division II of the Housing and Community Development Article.

(2) The service restrictions imposed under this subsection do not apply to central hot water.

(3) The Commission may not authorize a gas company or electric company to service an occupancy unit or shopping center unit subject to this subsection unless the building or shopping center has individual metered service or submetering as provided under § 7–303 or § 7–304 of this subtitle for each individually leased or owned occupancy unit or shopping center unit.

(4) In accordance with its regulations, the Commission may authorize a gas company or electric company to provide service for central heating or cooling systems, or a combination of those systems, to an occupancy unit or shopping center unit subject to this subsection if the Commission is satisfied that the service will result in a substantial net saving of energy over the energy saving that would result from individual metering or submetering as provided under § 7–303 or § 7–304 of this subtitle.

(d) The owner, operator, or manager of a residential multiple occupancy building or shopping center subject to this section may not impose a utility cost on an occupancy unit or shopping center unit, except for charges that:

(1) the Commission authorizes the gas company or electric company to impose; and

(2) the gas company or electric company actually imposes on the owner, operator, or manager.

§7–302.

(a) (1) By written request, a consumer may compel the Commission to inspect and test the consumer's electric meter or gas meter.

(2) The consumer is entitled to be present for the test.

(b) (1) The Commission shall set a percentage tolerance limit for the accuracy of an electric meter or gas meter.

(2) The Commission shall order a gas company or electric company to replace a meter at the company's expense if the meter is incorrect to the prejudice of the consumer by more than the percentage tolerance limit set by the Commission.

(c) (1) The Commission shall set a uniform reasonable fee for meter test services under this section.

(2) (i) If the test indicates that the meter is within the percentage tolerance limit set by the Commission under subsection (b)(1) of this section, the consumer shall pay the test fee.

(ii) If the test indicates that the meter is not within the percentage tolerance limit set by the Commission, the Commission shall refund the fee.

§7–303.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) "Apartment house" means one or more buildings that each contain more than two dwelling units and in which all the dwelling units are occupied primarily for nontransient use with rent paid at intervals of 1 week or longer.

(ii) "Apartment house" includes a residential condominium or cooperative, whether the units are rented or owner occupied.

(3) "Commercial rental unit" means any leased premises used for retail, commercial, clerical, or professional purposes.

(4) "Dwelling unit" means premises that consist of one or more rooms suitable for occupancy as a residence and that contain kitchen and bathroom facilities.

(5) "Office building" means one or more buildings that each contain two or more commercial rental units.

(6) "Shopping center" means any combination of privately owned commercial, professional, or retail establishments to which the general public is invited for business purposes.

(7) "Submetering" means the installation of equipment to determine the actual use of gas or electricity for each:

(i) residential unit in an apartment house; or

(ii) commercial rental unit in an office building or shopping center.

(b) An apartment house, office building, or shopping center that contains a combination of dwelling units or commercial rental units is included under the requirements of this section.

(c) Subject to the provisions of this section, and with the approval of the Commission, a local housing authority established under Division II of the Housing and Community Development Article may submeter any combination of apartment houses, commercial rental units, dwelling units, office buildings, and shopping centers.

(d) (1) Notwithstanding any other law, the Commission shall adopt regulations to establish standards:

(i) by which an owner, operator, or manager of an apartment house, office building, or shopping center may install submetering equipment for each dwelling unit or commercial rental unit that is not individually metered for gas or electricity; and

(ii) to allocate fairly the cost of each unit's gas or electrical consumption.

(2) (i) An owner, operator, or manager of an apartment house, office building, or shopping center who installs submetering equipment under this section to provide bulk metered service may not impose on a unit in the facility any utility cost except the charges that the Commission authorizes and that the gas company or electric company actually imposes on the owner, operator, or manager.

(ii) The charges imposed under subparagraph (i) of this paragraph shall be allocated among the units in proportion to the actual usage of cubic feet or kilowatt hours by the unit.

(iii) The owner, operator, or manager of an apartment house, office building, or shopping center may collect an additional service charge not exceeding $1 per unit per month to cover administrative costs and billing.

(3) (i) The requirements of this paragraph do not apply to units constructed, managed, operated, developed, or subsidized by a local housing authority established under Division II of the Housing and Community Development Article.

(ii) If the owner, operator, or manager of an apartment house, office building, or shopping center installs submeters during the term of a lease or agreement that includes the cost of gas or electricity consumed for the unit, the owner, operator, or manager shall:

1. determine the amount of gas or electric costs saved by that unit; and

2. pass that amount on to the unit's occupant as a payment or reduction in rent.

(4) All submetering equipment under this section is subject to:

(i) the regulations and standards that the Commission adopts for the accuracy, testing, and record keeping of meters that gas companies or electric companies install; and

(ii) the meter requirements of §§ 7-301 and 7-302 of this subtitle.

(e) The regulations that the Commission adopts under this section shall:

(1) include appropriate safeguards for the occupant of the dwelling unit or commercial rental unit;

(2) require that the utility costs and charges on each unit be imposed in accordance with subsection (d)(2) of this section; and

(3) require that the owner, operator, or manager of the apartment house, office building, or shopping center:

(i) maintain adequate records regarding submetering; and

(ii) allow the occupant of the unit to inspect the records during reasonable business hours.

(f) A regulation or standard that the Commission adopts under this section may be enforced under §§ 3-104 and 13-101 of this article.

(g) The owner, operator, or manager of an apartment house, office building, or shopping center:

(1) may not be considered a public service company; and

(2) may use metering equipment only to allocate fairly the costs of gas or electric service among the occupants of the apartment house, office building, or shopping center in accordance with subsection (e) of this section.

(h) (1) A complaint by an occupant of a dwelling unit or commercial rental unit against an owner, operator, or manager of an apartment house, office building, or shopping center under this section may be filed in the county or municipal corporation where the apartment house, office building, or shopping center is located.

(2) A complaint filed under paragraph (1) of this subsection may be handled by:

(i) the landlord-tenant commission, if one exists, of the county or municipal corporation;

(ii) the consumer protection agency, if one exists, of the county or municipal corporation if there is not a landlord-tenant commission in the county or municipal corporation;

(iii) the Consumer Protection Division of the Office of the Attorney General, if there is not a consumer protection agency in the county or municipal corporation; or

(iv) any other State or local government unit or office designated to handle tenants' complaints.

(i) This section does not affect the right of an owner, operator, or manager of an apartment house, office building, or shopping center to redistribute gas or electricity to tenants or occupants.

§7–304.

(a) (1) In this section the following words have the meanings indicated.

(2) "Apartment house" has the meaning stated in § 7-303(a) of this subtitle.

(3) "Dwelling unit" has the meaning stated in § 7-303(a) of this subtitle.

(4) "Energy allocation system" means a method of determining the approximate energy use within an individual dwelling unit by a measuring device that the Commission approves.

(b) (1) Approval from the Commission is required before energy allocation equipment and procedures may be used by the owner, operator, or manager of an apartment house to determine the amount of gas or electricity used by an individual dwelling unit, if the amount of gas or electricity is determined by means other than by actual measurement of fuel or electric power consumed by the unit.

(2) An energy allocation system may not be used for direct billing of energy costs to the tenant of an individual dwelling unit unless the Commission approves the system in accordance with this subsection.

(c) (1) The Commission shall adopt regulations that specify the conditions under which the energy allocation equipment and procedures approved by it under subsection (b) of this section may be implemented.

(2) The regulations shall include requirements that the owner, operator, or manager of an apartment house shall use to inform consumers about estimated energy costs.

(d) The Commission shall send any complaint it receives about an individual dwelling unit's gas or electric power consumption to the Office of the Attorney General, Consumer Protection Division, if the dwelling unit's gas or electric power consumption is determined by the use of energy allocation equipment and procedures approved by the Commission under subsection (b) of this section.

§7–305.

(a) A gas company or electric company may bill its customers for gas, electricity, or any other service it renders only on the basis of the net total cost of the service under the applicable rate that is filed for that service.

(b) (1) The Commission may authorize a gas company or electric company to apply an additional charge over the net total cost to any bill or part of a bill that is not paid:

(i) within 20 days for a residential customer or residential cooperative; or

(ii) within 15 days for any other customer.

(2) (i) The additional charge that is applied by a gas company or electric company under this subsection may not exceed 5% of the net bill or part of the bill.

(ii) Unless the Commission approves the imposition of different charges on different classes of customers, any additional charges applied by a gas company or electric company under this subsection shall be uniform for all customers.

§7–306.

(a) (1) In this section the following words have the meanings indicated.

(2) "Biomass" means "qualified biomass" as defined in § 7–701 of this title.

(3) "Closed conduit hydro" means a hydroelectric generating facility that:

(i) generates electricity within existing piping or limited adjacent piping of a potable water supply system;

(ii) is owned or operated by a municipal corporation or public water authority; and

(iii) is designed to produce less energy than is consumed to operate the water supply system.

(4) "Eligible customer–generator" means a customer that owns and operates, leases and operates, or contracts with a third party that owns and operates a biomass, micro combined heat and power, solar, fuel cell, wind, or closed conduit hydro electric generating facility that:

(i) is located on the customer's premises or contiguous property;

(ii) is interconnected and operated in parallel with an electric company's transmission and distribution facilities; and

(iii) is intended primarily to offset all or part of the customer's own electricity requirements.

(5) "Fuel cell" means an electric generating facility that:

(i) includes integrated power plant systems containing a stack, tubular array, or other functionally similar configuration used to electrochemically convert fuel to electric energy; and

(ii) may include:

1. an inverter and fuel processing system; and

2. other plant equipment to support the plant's operation or its energy conversion, including heat recovery equipment.

(6) "Micro combined heat and power" means the simultaneous or sequential production of useful thermal energy and electrical or mechanical power not exceeding 30 kilowatts.

(7) "Net energy metering" means measurement of the difference between the electricity that is supplied by an electric company and the electricity that is generated by an eligible customer–generator and fed back to the electric grid over the eligible customer–generator's billing period.

(8) "Net excess generation" means the amount of the electricity generated by an eligible customer–generator that is in excess of the electricity consumed by the eligible customer–generator and that results in a negative kilowatt–hour reading at the end of the eligible customer–generator's billing cycle.

(b) The General Assembly finds and declares that a program to provide net energy metering for eligible customer–generators is a means to encourage private investment in renewable energy resources, stimulate in–State economic growth, enhance continued diversification of the State's energy resource mix, and reduce costs of interconnection and administration.

(c) An electric company serving an eligible customer–generator shall ensure that the meter installed for net energy metering is capable of measuring the flow of electricity in two directions.

(d) The Commission shall require electric utilities to develop a standard contract or tariff for net energy metering and make it available to eligible customer–generators on a first–come, first–served basis until the rated generating capacity owned and operated by eligible customer–generators in the State reaches 3,000 megawatts.

(e) (1) A net energy metering contract or tariff shall be identical, in energy rates, rate structure, and monthly charges, to the contract or tariff that the customer would be assigned if the customer were not an eligible customer–generator.

(2) (i) A net energy metering contract or tariff may not include charges that would raise the eligible customer–generator's minimum monthly charge above that of customers of the rate class to which the eligible customer–generator would otherwise be assigned.

(ii) Charges prohibited by this paragraph include new or additional demand charges, standby charges, customer charges, and minimum monthly charges.

(f) (1) The electric company shall calculate net energy metering in accordance with this subsection.

(2) Net energy produced or consumed on a regular basis shall be measured in accordance with standard metering practices.

(3) If electricity supplied by the grid exceeds electricity generated by the eligible customer–generator during a month, the eligible customer–generator shall be billed for the net energy supplied in accordance with subsection (e) of this section.

(4) If electricity generated by the eligible customer–generator exceeds the electricity supplied by the grid, the eligible customer–generator shall be billed only customer charges for that month in accordance with subsection (e) of this section.

(5) (i) An eligible customer–generator under paragraph (4) of this subsection may:

1. accrue net excess generation for a period:

A. not to exceed 12 months; and

B. that ends with the billing cycle that is complete immediately prior to the end of April of each year; or

2. except for an eligible customer–generator served by a municipal electric utility or an electric cooperative and subject to subparagraph (iv) of this paragraph, accrue net excess generation for an indefinite period regardless of whether the eligible customer–generator previously accrued net excess generation for a period authorized under item 1 of this subparagraph.

(ii) The electric company shall carry forward net excess generation until:

1. the eligible customer–generator's consumption of electricity from the grid eliminates the net excess generation;

2. the accrual period under subparagraph (i)1 of this paragraph expires; or

3. the account is closed.

(iii) 1. If an eligible customer–generator elects to accrue net excess generation for a period not to exceed 12 months under subparagraph (i)1 of this paragraph, the dollar value of net excess generation shall be equal to the generation or commodity portion of the rate that the eligible customer–generator would have been charged by the electric company averaged over the previous 12–month period ending with the billing cycle that is complete immediately before the end of April multiplied by the number of kilowatt–hours of net excess generation.

2. For an eligible customer–generator that elects to accrue net excess generation under subparagraph (i)1 of this paragraph and is served by a community choice aggregator or an electricity supplier, the dollar value of the net excess generation shall be equal to the generation or commodity rate that the customer would have been charged by the community choice aggregator or electricity supplier multiplied by the number of kilowatt–hours of net excess generation.

(iv) If an eligible customer–generator elects to accrue net excess generation for an indefinite period under subparagraph (i)2 of this paragraph:

1. the eligible customer–generator may not elect to switch to accruing net excess generation under subparagraph (i)1 of this paragraph unless the electric company approves the switch; and

2. the electric company shall, within 15 days after an eligible customer–generator's account is closed, pay the eligible customer–generator, in accordance with subparagraph (v) of this paragraph, for any accrued net excess generation remaining at the time the account is closed.

(v) The Commission shall establish a method for calculating the value of any accrued net excess generation that a customer–generator elects to accrue for an indefinite period under subparagraph (i)2 of this paragraph.

(6) (i) If an eligible customer–generator elects to accrue net excess generation under paragraph (5)(i)1 of this subsection, on or before 30 days after the billing cycle that is complete immediately prior to the end of April of each year, the electric company shall pay the eligible customer–generator for the dollar

value of any accrued net excess generation remaining at the end of the previous 12–month period ending with the billing cycle that is complete immediately before the end of April.

(ii) Within 15 days after the date an eligible customer–generator that elects to accrue net excess generation under paragraph (5)(i)1 of this subsection closes the eligible customer–generator's account, the electric company shall pay the eligible customer–generator for the dollar value of any accrued net excess generation remaining at the time the eligible customer–generator closes the account.

(7) (i) Notwithstanding paragraphs (5) and (6) of this subsection, an eligible customer–generator served by an electric cooperative that serves a population of less than 250,000 in its distribution territory may choose to be paid for the dollar value of net excess generation remaining at the end of each month instead of at the end of the accrual period specified under paragraph (5)(i)1 of this subsection.

(ii) If an eligible customer–generator chooses to be paid for the dollar value of net excess generation remaining at the end of each month:

1. the customer–generator may accrue net excess generation on a monthly basis;

2. the dollar value of the net excess generation shall be equal to the generation or commodity portion of the rate that the eligible customer–generator would have been charged by the electric company for the previous month; and

3. on or before 30 days after the end of each month, the electric cooperative shall pay the eligible customer–generator for the dollar value of net excess generation remaining at the end of the previous month.

(g) (1) Except as provided in paragraphs (6), (7), and (8) of this subsection, the generating capacity of an electric generating system used by an eligible customer–generator for net metering may not exceed 2 megawatts.

(2) An electric generating system used by an eligible customer–generator for net metering shall meet all applicable safety and performance standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories.

(3) The Commission may adopt by regulation additional control and testing requirements for eligible customer–generators that the Commission determines are necessary to protect public safety and system reliability.

(4) An electric company may not require an eligible customer–generator whose electric generating system meets the standards of paragraphs (2) and (3) of this subsection to:

(i) install additional controls;

(ii) perform or pay for additional tests; or

(iii) purchase additional liability insurance.

(5) An eligible customer–generator or the eligible customer–generator's assignee shall own and have title to all renewable energy attributes or renewable energy credits associated with any electricity produced by its electric generating system.

(6) The Commission may not prohibit the construction or operation of multiple net metered solar energy generating facilities located on separate contiguous lots that are owned by a local government solely because the capacity of the combined net metering systems exceeds the limit established under paragraph (1) of this subsection, if:

(i) the net metered solar energy generating facilities are intended to be used solely for the benefit of the local government;

(ii) the total capacity of the net metered solar energy generating facilities on the contiguous lots does not exceed 5 megawatts;

(iii) the contiguous lots were not subdivided for the purpose of circumventing the limit established under paragraph (1) of this subsection; and

(iv) the utility serving the net metered solar energy generating facilities is not an electric cooperative or municipal electric utility.

(7) The generating capacity of a community solar energy generating system established under § 7–306.2 of this subtitle that is used for net metering may not exceed 5 megawatts.

(8) The generating capacity of a net metered facility that is meter aggregated under § 7–306.3 of this subtitle may not exceed 5 megawatts.

(h) An eligible customer–generator participating in net energy metering may participate in the aggregation activities of a community choice aggregator under § 7–510.3 of this title.

(i) Notwithstanding the generating capacity limits established in subsection (g) of this section, an eligible customer–generator participating in meter aggregation under § 7–306.2 or § 7–306.3 of this subtitle may receive excess generation from more than one generating system, including if the combined generating capacity of all net metered facilities that are meter aggregated exceeds 5 megawatts.

(j) On or before November 1 of each year, the Commission shall report to the General Assembly, in accordance with § 2–1257 of the State Government Article, on the status of the net metering program under this section, including:

(1) the amount of capacity of electric generating facilities owned and operated by eligible customer–generators in the State by type of energy resource;

(2) based on the need to encourage a diversification of the State's energy resource mix to ensure reliability, whether the rated generating capacity limit in subsection (d) of this section should be altered; and

(3) other pertinent information.

§7–306.1.

(a) A person who is negotiating a contract with an eligible customer–generator to install a solar electric generating facility on the customer–generator's property that the customer–generator owns and operates, leases and operates, or contracts with a third party that owns and operates and that requires interconnection with an electric company's distribution facilities:

(1) shall submit to the customer–generator's electric company a completed application for interconnection of the solar electric generating facility with the electric company's distribution facilities;

(2) before receiving the electric company's approval of the application submitted under paragraph (1) of this subsection:

(i) may accept payment from the customer–generator in connection with the contract; but

(ii) may not begin installation of the solar electric generating facility on the customer–generator's property;

(3) shall notify the customer–generator of the electric company's approval or disapproval of the application submitted under paragraph (1) of this subsection; and

(4) if the electric company disapproves the application submitted under paragraph (1) of this subsection, shall fully refund any payment from the customer–generator under paragraph (2)(i) of this subsection.

(b) On request of a person under subsection (a)(1) of this section, an electric company shall process an application submitted under subsection (a)(1) of this section and notify the person whether the application is approved or disapproved in accordance with a process and time frame specified in regulations adopted by the Commission.

(c) (1) In this subsection, "installation process" includes:

(i) an approved application submitted under subsection (a)(1) of this section;

(ii) completion of the installation of the customer–generator's solar electric generating facility and any required electric distribution system upgrades; and

(iii) completion of all necessary paperwork and documentation, including a signed interconnection agreement, certificate of completion, and an inspection certificate.

(2) (i) Subject to subparagraph (ii) of this paragraph, an electric company shall issue acceptance and final approval to operate a customer–generator's solar electric generating facility on the electric company's distribution facilities within 20 business days after the completion of the installation process and receipt of the paperwork and documentation set forth in paragraph (1)(iii) of this subsection.

(ii) An electric company shall complete the interconnection requirements under subparagraph (i) of this paragraph for at least 90% of installation processes completed during the year in the electric company's service territory.

(3) The Commission may temporarily waive the requirements under paragraph (2) of this subsection in an electric company's service territory on a showing of good cause.

§7–306.2.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) "Agrivoltaics" means the simultaneous use of areas of land:

1. that are maintained in agricultural use in accordance with COMAR 18.02.03 or the Maryland Assessment Procedures Manual; and

2. for both solar power generation and:

A. raising grains, fruits, herbs, melons, mushrooms, nuts, seeds, tobacco, or vegetables;

B. raising poultry, including chickens and turkeys, for meat or egg production;

C. dairy production, such as the raising of milking cows;

D. raising livestock, including cattle, sheep, goats, or pigs;

E. horse boarding, breeding, or training;

F. turf farming;

G. raising ornamental shrubs, plants, or flowers, including aquatic plants;

H. aquaculture;

I. silviculture; or

J. any other activity recognized as an agricultural activity under COMAR 18.02.03 or the Maryland Assessment Procedures Manual.

(ii) "Agrivoltaics" does not include the simultaneous use of areas of land for both solar power generation and:

1. apiaries; or

2. pollinator habitat.

(3) "Baseline annual usage" means:

(i) a subscriber's accumulated electricity use in kilowatt–hours for the 12 months before the subscriber's most recent subscription; or

(ii) for a subscriber that does not have a record of 12 months of electricity use at the time of the subscriber's most recent subscription, an estimate of the subscriber's accumulated 12 months of electricity use in kilowatt–hours, determined in a manner the Commission approves.

(4) "Community solar energy generating system" means a solar energy system that:

(i) is connected to the electric distribution system serving the State;

(ii) is located in the same electric service territory as its subscribers;

(iii) is attached to the electric meter of a subscriber or is a separate facility with its own electric meter;

(iv) credits its generated electricity, or the value of its generated electricity, to the bills of the subscribers to that system through virtual net energy metering;

(v) has at least two subscribers but no limit to the maximum number of subscribers;

(vi) does not have subscriptions larger than 200 kilowatts constituting more than 60% of its kilowatt–hour output;

(vii) has a generating capacity that does not exceed 5 megawatts as measured by the alternating current rating of the system's inverter;

(viii) may be owned by any person; and

(ix) with respect to community solar energy generating systems constructed under the Program, serves at least 40% of its kilowatt–hour output to LMI subscribers unless the solar energy system is wholly owned by the subscribers to the solar energy system.

(5) "Consolidated billing" means a payment mechanism that requires an electric company to, at the request of a subscriber organization or subscription coordinator:

(i) include the monthly subscription charge of a subscriber organization or subscription coordinator on the monthly bills rendered by the electric company for electric service and supply to subscribers; and

(ii) remit payment for those charges to the subscriber organization or subscription coordinator.

(6) "Critical area" has the meaning stated in § 8–1802 of the Natural Resources Article.

(7) "LMI subscriber" means a subscriber that:

(i) is low–income;

(ii) is moderate–income; or

(iii) resides in a census tract that is:

1. an overburdened community; and

2. an underserved community.

(8) "Low–income" means:

(i) having an annual household income that is at or below 200% of the federal poverty level; or

(ii) being certified as eligible for any federal, State, or local assistance program that limits participation to households whose income is at or below 200% of the federal poverty level.

(9) "Moderate–income" means having an annual household income that is at or below 80% of the median income for Maryland.

(10) "Overburdened community" has the meaning stated in § 1–701 of the Environment Article.

(11) "Pilot program" means the program established under this section before July 1, 2023, and effective until the start of the Program established under subsection (d)(20) of this section.

(12) "Program" means the Community Solar Energy Generating Systems Program.

(13) "Queue" means:

(i) the pilot program queue an electric company is required to maintain under COMAR 20.62.03.04; and

(ii) a queue an electric company may be required to maintain under the Program.

(14) "Subscriber" means a retail customer of an electric company that:

(i) holds a subscription to a community solar energy generating system; and

(ii) has identified one or more individual meters or accounts to which the subscription shall be attributed.

(15) "Subscriber organization" means:

(i) a person that owns or operates a community solar energy generating system; or

(ii) the collective group of subscribers of a community solar energy generating system.

(16) "Subscription" means the portion of the electricity generated by a community solar energy generating system that is credited to a subscriber.

(17) "Subscription coordinator" means a person that:

(i) markets community solar energy generating systems or otherwise provides services related to community solar energy generating systems under its own brand name;

(ii) performs any administrative action to allocate subscriptions, connect subscribers with community solar energy generating systems, or enroll customers in the Program; or

(iii) manages interactions between a subscriber organization and an electric company or electricity supplier relating to subscribers.

(18) "Underserved community" has the meaning stated in § 1–701 of the Environment Article.

(19) "Unsubscribed energy" means any community solar energy generating system output in kilowatt–hours that is not allocated to any subscriber.

(20) "Virtual net energy metering" means measurement of the difference between the kilowatt–hours or value of electricity that is supplied by an electric company and the kilowatt–hours or value of electricity attributable to a subscription to a community solar energy generating system and fed back to the electric grid over the subscriber's billing period, as calculated under the tariffs established under subsections (e)(2), (f)(2), and (g)(2) of this section.

(b) The General Assembly finds that:

(1) community solar energy generating systems:

(i) provide residents and businesses, including those that lease property, increased access to local solar electricity while encouraging private investment in solar resources;

(ii) enhance continued diversification of the State's energy resource mix to achieve the State's renewable energy portfolio standard and Greenhouse Gas Emissions Reduction Act goals; and

(iii) provide electric companies and ratepayers the opportunity to realize the many benefits associated with distributed energy; and

(2) it is in the public interest that the State enable the development and deployment of energy generation from community solar energy generating systems in order to:

(i) allow renters and low–income and moderate–income retail electric customers to own an interest in a community solar energy generating system;

(ii) facilitate market entry for all potential subscribers while giving priority to subscribers who are the most sensitive to market barriers; and

(iii) encourage developers to promote participation by renters and low–income and moderate–income retail electric customers.

(c) A community solar energy generating system, subscriber, subscriber organization, or subscription coordinator is not:

(1) an electric company;

(2) an electricity supplier; or

(3) a generating station if:

(i) the generating capacity of the community solar energy generating system does not exceed 2 megawatts; or

(ii) the community solar energy generating system is located on the rooftop of a building.

(d) (1) (i) The Commission shall establish and maintain a Community Solar Energy Generating Systems Program.

(ii) The structure of the Program is as provided in this subsection.

(2) All rate classes may participate in the Program.

(3) Subscribers served by electric standard offer service, community choice aggregators, and electricity suppliers may hold subscriptions to the same community solar energy generating system.

(4) A subscriber organization or subscription coordinator acting on behalf of a subscriber organization shall:

(i) determine how to allocate subscriptions to subscribers; and

(ii) notify an electric company and, if applicable, a relevant electricity supplier about the allocation of subscriptions in accordance with the regulations the Commission adopts under subsection (e) of this section.

(5) An electric company shall use the tariff structure under subsections (e)(2), (f)(2), and (g)(2) of this section to provide each subscriber with the credits.

(6) A subscriber shall:

(i) receive credit for virtual net excess generation; and

(ii) accrue virtual net excess generation in the same manner as an eligible customer–generator under § 7–306(f) of this subtitle.

(7) (i) Any unsubscribed energy generated by a community solar energy generating system that is not owned by an electric company shall create banked bill credits tracked by the electric company that, within 1 year after the date

that the banked bill credit was created, may be allocated to one or more subscribers by the subscriber organization or subscription coordinator associated with the community solar energy generating system.

(ii) The generation associated with a banked bill credit not allocated to a subscriber within 1 year after the date that the banked bill credit was created shall be purchased under the electric company's process for purchasing the output from qualifying facilities at the amount it would have cost the electric company to procure the energy.

(8) An electric company shall use energy generated from a community solar energy generating system to offset purchases from wholesale electricity suppliers for standard offer service.

(9) All costs associated with small generator interconnection standards under COMAR 20.50.09 are the responsibility of the subscriber organization.

(10) A subscriber organization may petition an electric company to coordinate the interconnection and commencement of operations of a community solar energy generating system after the Commission adopts regulations required under subsection (e) of this section.

(11) A subscriber organization may contract with a third party for the third party to finance, build, own, or operate a community solar energy generating system.

(12) A municipal utility or cooperative utility may participate in the Program.

(13) (i) Except as provided in subparagraph (ii) of this paragraph, a community solar energy generating system may not be located on the same or an adjacent parcel of land as an existing or proposed community solar energy generating system if the total installed capacity of all community solar energy generating systems on the same or adjacent parcel would exceed 5 megawatts.

(ii) The prohibition under subparagraph (i) of this paragraph does not apply to projects constructed:

1. on the rooftops of buildings;

2. in areas that are zoned for industrial use;

3. on brownfields locations and clean fill sites;

4. over parking lots or roadways;

5. on multilevel parking structures;

6. on or over transportation or public rights–of–way;

7. at airports;

8. on land that:

A. was previously zoned for industrial use or is ecologically compromised; and

B. is not targeted for mitigation or restoration; or

9. in any location if the combined capacity of all community solar energy generating systems on the same or adjacent parcel does not exceed 10 megawatts and:

A. at least 75% of the aggregate capacity of the co–located community solar energy generating systems serves LMI subscribers;

B. for a site without a community solar energy generating system installed before the start of the Program under paragraph (20) of this subsection, all of the community solar energy generating systems installed after the start of the Program are used for agrivoltaics; or

C. for a site with a community solar energy generating system installed before the start of the Program under paragraph (20) of this subsection, each new community solar energy generating system installed after the start of the Program is used for agrivoltaics.

(14) A subscriber organization or subscription coordinator may elect for a subscriber or a community solar energy generating system represented by the subscriber organization or subscription coordinator to participate in consolidated billing.

(15) An electric company shall provide access to customer billing and usage data to a subscriber organization or subscription coordinator if the customer provides to the electric company affirmative consent that is accompanied by a written or electronic signature.

(16) (i) An electric company may require a reasonable fee for subscriber organizations or subscription coordinators that use consolidated billing.

(ii) The fee under subparagraph (i) of this paragraph may not exceed 1% of the bill credit value to the subscriber unless the Commission determines a higher fee is just and reasonable based on substantial evidence presented by the electric company.

(iii) An electric company may adjust the fee under subparagraph (i) of this paragraph not more than once per year.

(iv) The fee for consolidated billing assessed to a subscriber organization or subscription coordinator may not exceed the fee that was in effect when the subscriber organization or subscription coordinator elected for the community solar energy generating system represented by the subscriber organization or subscription coordinator to participate in consolidated billing.

(17) A subscriber organization or subscription coordinator may not prohibit a subscriber from enrolling with an electricity supplier for electric service or supply.

(18) A community solar energy generating system on an electric company queue under the pilot program shall retain the queue position under the Program.

(19) In constructing or operating a community solar energy generating system, a person shall address critical area, climate resilience, and forest conservation concerns by complying with the Forest Conservation Act and other relevant State and local environmental laws and regulations pertaining to the critical area, climate resilience, and forest conservation.

(20) The Program shall begin on the earlier of:

(i) the date of submission of the first petition of a subscriber organization under paragraph (10) of this subsection after the Commission adopts the regulations required under subsection (f) of this section; or

(ii) 6 months after the Commission adopts those regulations.

(e) On or before May 15, 2016, the Commission shall adopt regulations to implement this section, including regulations for:

(1) consumer protection;

(2) a tariff structure for an electric company to provide a subscriber with the kilowatt–hours or value of the subscriber's subscription, as the Commission determines;

(3) a calculation for virtual net energy metering as the Commission determines;

(4) a protocol for electric companies, electricity suppliers, and subscriber organizations to communicate the information necessary to calculate and provide the monthly electric bill credits and net excess generation payments required by this section; and

(5) a protocol for a subscriber organization to coordinate with an electric company for the interconnection and commencement of operations of a community solar energy generating system.

(f) (1) Subject to subsection (h) of this section, to implement the Program, the Commission shall, on or before January 1, 2025, adopt revisions to the regulations adopted under subsection (e) of this section for the pilot program, including revisions that:

(i) remove all Program categories, project generating capacity limits, yearly programmatic and electric company–specific capacity limits, and sunset dates so that the total number and capacity of community solar energy generating systems is subject only to the overall limitation for all net metering projects established under § 7–306(d) of this subtitle;

(ii) authorize all community solar energy generating systems, including those constructed during the pilot program, to operate and generate subscription credits until the community solar energy generating system is decommissioned;

(iii) adjust co–location restrictions to comply with subsection (d)(13) of this section;

(iv) allow a subscriber organization or subscription coordinator to verify the income of a prospective subscriber for eligibility as an LMI subscriber under the Program by using one of the following methods:

1. self–attestation by the prospective subscriber that does not need to be under oath or penalty of perjury;

2. requiring the prospective subscriber to provide evidence of eligibility for or enrollment in at least one of the following government assistance programs:

A. the Maryland Energy Assistance Program;

B. the Supplemental Nutrition Assistance Program;

C. Medicaid;

D. Head Start;

E. free and reduced price school meals;

F. the federal Low Income Home Energy Assistance Program;

G. EmPOWER Maryland low– or moderate–income incentives;

H. telephone lifeline service;

I. the Fuel Fund of Maryland; or

J. any additional federal, State, or local assistance program that the Commission determines will further the purposes of the Program;

3. pay stubs;

4. income tax documents;

5. proof of residence in an affordable housing facility;

6. proof of residence within a census tract that is:

A. an overburdened community; and

B. an underserved community;

7. any verification method that was available under the pilot program; or

8. any additional methods approved by the Commission to verify income;

(v) require all electric companies to use:

1. bill credits applied as a reduction in metered kilowatt–hours; or

2. monetary bill credits that provide not less than the value to the subscriber of the credit had it been applied to the subscriber's bill as a reduction in metered kilowatt–hours; and

(vi) establish procedures for the Commission to:

1. collect data from subscriber organizations, when applying to the Commission for admission to the Program, on:

A. the type and quantity of forest cover on the site of a proposed community solar energy generating system; and

B. any anticipated impacts that the construction of the proposed community solar energy generating system will have on trees and forest cover at the site of the proposed community solar energy generating system; and

2. make the data collected under item 1 of this item available to the public in a format aggregated by county.

(2) On or before July 1, 2025, the Commission shall approve electric company tariff modifications that are consistent with the regulations adopted under this subsection.

(g) (1) Subject to subsection (h) of this section, on or before July 1, 2025, the Commission shall adopt regulations that:

(i) implement consolidated billing by electric companies that must be in effect by January 1, 2026, including protocols for purchase of receivables or net crediting;

(ii) require all electric companies to report billing and crediting errors to the Commission on a regular schedule;

(iii) impose specific timing requirements for application of bill credits to subscriber bills and application of rollover credits;

(iv) implement data exchange protocols for electric companies, subscriber organizations, and subscription coordinators, including required data fields for electric company allocation reports;

(v) for subscribers enrolled in budget billing, require electric companies to apply community solar credits to the monthly amount due rather than the underlying balance;

(vi) require all electric companies to show applied and banked credits on each bill rendered to a subscriber; and

(vii) implement any additional changes the Commission determines will improve billing and crediting processes for subscribers, subscriber organizations, and subscription coordinators.

(2) On or before January 1, 2026, the Commission shall approve electric company tariff modifications that are consistent with the regulations adopted under this subsection.

(h) The Commission shall convene a stakeholder workgroup to provide recommendations regarding the regulations to be adopted by the Commission under subsections (f) and (g) of this section.

(i) The Commission shall consider and implement methodologies to allow the tenants of master–metered residential facilities to participate in the Program and benefit directly from any associated electric bill savings.

(j) (1) Subject to regulations or orders of the Commission, a contract relating to a community solar energy generating system, subscriber organization, or subscription coordinator that is entered into during the pilot program or the Program shall remain in effect according to the terms of the contract, including after the termination of the pilot program or the Program.

(2) (i) This paragraph applies to electric companies, electric cooperatives, and municipal utilities that participate in the Program.

(ii) A subscriber who has a change in the service address associated with the subscriber's subscription may maintain the subscription for the new address if the new address is within the same electric territory as the old address.

(iii) An electric company or a subscriber organization may not terminate a subscriber's subscription due to a change of address for the service address associated with the subscription if the requirements under subparagraph (ii) of this paragraph are met.

(iv) An electric company shall make any changes necessary to accommodate a subscriber's change of address on notification by a subscriber organization.

(3) On and after October 1, 2023, in accordance with the operational and billing requirements in subsection (d) of this section:

(i) a subscriber organization may continue the operation of a community solar energy generating system that began operation during the pilot program, including the creation and trading of subscriptions; and

(ii) in accordance with the tariffs established under subsections (e)(2), (f)(2), and (g)(2) of this section, an electric company shall continue to facilitate the operation of a community solar energy generating system that began operation during the pilot program.

(k) The cumulative installed nameplate capacity under the pilot program and the Program shall count toward the overall limitation for all net metering projects established under § 7–306(d) of this subtitle.

(l) (1) (i) A subscriber organization or subscription coordinator may not require an LMI subscriber to undergo a credit check or pay a sign–up fee to subscribe to a community solar energy generating system.

(ii) A subscriber organization or subscription coordinator shall:

1. verify the eligibility of an LMI subscriber in accordance with subsection (f)(1)(iv) of this section; and

2. retain records of each determination of eligibility for an LMI subscriber to be made available to the Commission on request.

(2) A subscriber who a subscriber organization determined was eligible to participate as a low–income or moderate–income subscriber under the pilot program shall remain eligible as an LMI subscriber under the Program.

(3) (i) A community solar energy generating system constructed under the pilot program in a category requiring that at least 30% of its kilowatt–hour output serve low–income or moderate–income subscribers shall continue to serve at least 30% of its kilowatt–hour output to low–income or moderate–income subscribers.

(ii) A community solar energy generating system constructed under the pilot program in a category requiring that at least 51% of its kilowatt–hour output serve low–income or moderate–income subscribers shall continue to serve at least 51% of its kilowatt–hour output to low–income or moderate–income subscribers.

(m) (1) A subscriber organization or subscription coordinator may not charge:

(i) a residential subscriber who is not participating in consolidated billing a subscription rate that is more than the monetary value of the bill credit on a bill issued by the electric company to the subscriber for electric service; or

(ii) an LMI subscriber a subscription rate that is more than 90% of the monetary value of the bill credit on a bill issued by the electric company to the subscriber for electric service.

(2) A subscriber organization or subscription coordinator that elects for a subscriber to participate in consolidated billing may not set a subscription charge that is more than the monetary value of the bill credit on a bill issued by the electric company to the subscriber.

(n) The developer of a community solar energy generating system with a generating capacity over 1 megawatt, as measured in alternating current, shall ensure that workers are paid not less than the prevailing wage rate determined under Title 17, Subtitle 2 of the State Finance and Procurement Article, unless the community solar energy generating system is subject to a project labor agreement that:

(1) binds all contractors and subcontractors on the community solar energy generating system through the inclusion of specifications in all relevant solicitation provisions and contract documents;

(2) allows all contractors and subcontractors to compete for contracts and subcontracts on the project without regard to whether they are otherwise parties to collective bargaining agreements;

(3) establishes uniform terms and conditions of employment for all construction labor employed on the projects;

(4) guarantees against strikes, lockouts, and similar job disruptions;

(5) establishes mutually binding procedures for resolving labor disputes; and

(6) includes any other provisions negotiated by the parties to promote successful delivery of the community solar energy generating system.

§7–306.3.

(a) In this section, "eligible customer–generator" has the meaning stated in § 7–306 of this subtitle.

(b) An electric company shall provide meter aggregation for an eligible customer–generator that:

(1) submits a request, in writing, to the electric company for the provision of meter aggregation; and

(2) (i) uses electrical service for agriculture;

(ii) is a nonprofit organization;

(iii) is a municipal or county government, or an organization affiliated with the municipal or county government;

(iv) is a unit of State government; or

(v) is a public senior higher education institution, as defined in § 10–101 of the Education Article.

(c) An electric company shall require an eligible customer–generator that requests meter aggregation under this section to provide written allocation instructions describing how to distribute the eligible customer–generator's excess generation credits to each account before the commencement of any meter aggregation.

§7–307.

(a) In this section, "termination of service" means the termination, reduction, or refusal to reinstate gas or electric service, or any other action that has the effect of reducing or denying gas or electric service because of nonpayment.

(b) (1) Subject to paragraph (2) of this subsection, the Commission shall adopt regulations concerning the prohibition against or limitation of authority of a public service company to terminate service for gas or electricity to a low income residential customer during the heating season for nonpayment.

(2) In adopting the regulations required under paragraph (1) of this subsection, the Commission shall consider and may include provisions relating to:

(i) the circumstances under which service may and may not be limited or terminated;

(ii) the minimum heating levels required to maintain life, health, and safety;

(iii) the medical, age, disabling, or other individual characteristics that are relevant to a prohibition against or limitation on the termination of service;

(iv) the availability of and qualification for State and federal energy assistance;

(v) the financial eligibility standards relevant to a prohibition against or limitation on the termination of service;

(vi) the availability and appropriateness of equipment designed to limit the flow of service for gas or electricity;

(vii) the short-term and long-term alternative payment plans, for appropriate customers whose accounts are in arrears, that are best designed:

1. to allow present and future continuation of service; and

2. to encourage full payment over a period of time;

(viii) the methods that a public service company might use before and during the heating season to anticipate customer nonpayment, to assist those customers, and to avoid termination of service;

(ix) the procedures that a public service company uses to mitigate the problems of termination of service to customers, including customer contact;

(x) the procedure that a public service company shall follow before termination of service to a customer to avoid a threat to life, health, or safety;

(xi) the appropriate customer notice before the termination of service;

(xii) the appropriate opportunity and procedure for a customer to contest a proposed termination of service;

(xiii) the existence of other circumstances that because of an emergency, might justify a prohibition against or a limitation on the termination of service; and

(xiv) the economic implication of any restriction on termination of service.

(c) (1) In accordance with § 2–1257 of the State Government Article, on or before September 1 of each year, the Commission shall report to the General Assembly on terminations of service by public service companies during the previous heating season.

(2) The report shall include information in sufficient detail to indicate the effect of the terminations of service on various categories of customers, including:

(i) income levels;

(ii) geographic areas;

(iii) energy assistance recipients; and

(iv) any other category that the Commission determines is relevant to evaluate how the State may best address the problem of assuring adequate gas and electric service for low income residential customers.

§7–307.1.

(a) A public service company may not terminate electric or gas service to a residential customer in a designated weather station area because of nonpayment on a day for which the forecasted high temperature is 32 degrees Fahrenheit or below in that weather station area.

(b) A public service company may not terminate electric service to a residential customer in a designated weather station area because of nonpayment on a day for which the forecasted temperature is 95 degrees Fahrenheit or above in that weather station area.

(c) The Commission shall require each public service company that provides electric or gas service to designate and file with the Commission designated weather station areas within its service territory for use in administering the

restrictions on weather–related terminations under subsections (a) and (b) of this section.

(d) This section may not be construed to limit the authority of the Commission to adopt, by regulation or order, additional limitations and conditions on termination of electric or gas service that are more protective of consumers.

(e) The Commission shall adopt regulations to carry out this section.

§7–307.2.

(a) This section applies only to property subject to a condominium regime established under Title 11 of the Real Property Article.

(b) Notwithstanding any other law, if a public service company bills the governing body of a condominium or a person designated by the governing body of a condominium for electric, gas, or water service for all or a portion of the units in a condominium property, and the charge for service is in arrears for at least 60 days, the public service company shall post notice conspicuously at or near the entry to the common area of the condominium.

(c) The public service company may enter onto the common area of a condominium property at a reasonable time to post the notice required under this section.

§7–307.3.

(a) A public service company that intends to terminate, because of nonpayment, electric or gas service to a customer of the service to a multifamily dwelling unit shall notify the property owner or property manager of the multifamily dwelling unit before terminating service to the customer if the public service company has received the customer's consent that designates the property owner or property manager as a third–party authorized to receive a notice of termination of services.

(b) As a term of a lease of a multifamily dwelling unit, the property owner or property manager of the multifamily dwelling unit may require a tenant to ensure that a customer of the public service company that is responsible for the account for that multifamily dwelling unit provides consent for the property owner or property manager to receive a notice of termination of services as a result of nonpayment by the customer.

(c) A customer's consent may be provided to a public service company by:

(1) the customer; or

(2) if the consent is written, the property owner or property manager of the multifamily dwelling unit.

(d) Each public service company shall set up a procedure for handling the third–party notification process in a manner best suited to the circumstances of the particular public service company.

(e) Nothing in this section may be construed to prevent any other form of third–party notification that a customer may request.

(f) The Commission may adopt regulations to carry out this section.

§7–307.4.

(a) (1) In this section the following words have the meanings indicated.

(2) "Eligible residential customer" means a residential electric or gas customer who is:

(i) employed by the federal or State government or a local government in the State; and

(ii) involuntarily furloughed from work without pay because of a government shutdown, regardless of whether the employee is required to report to work during the furlough.

(3) "Government shutdown" means a government shutdown that:

(i) occurs when government funding is unavailable to operate the governmental activities due to the lack of a legislative appropriation or a continuing resolution; and

(ii) lasts for a period that exceeds 7 consecutive days.

(b) A public service company may not terminate electric or gas service to an eligible residential customer for nonpayment on a day that a government shutdown is in effect and for 7 days after the government shutdown has ended if the customer contacts the public service company before the date of termination to:

(1) provide verification that the customer is an employee of the federal, State, or local government affected by the government shutdown; and

(2) enter into a payment plan to pay any outstanding amount on the customer's account after the government shutdown ends.

(c) The Commission may adopt regulations to implement this section.

§7–308.

(a) In this section, "natural gas vehicle" means a vehicle operated on a public road and powered by natural gas.

(b) The sale by any person of natural gas that is received from a public service company for use as a motor fuel in a natural gas vehicle is not subject to regulation by the Commission.

(c) A person that sells natural gas received from a public service company for use as a motor fuel in a natural gas vehicle is not considered a public service company for purposes of this article.

§7–309.

(a) This section does not apply to electric cooperatives.

(b) (1) In this section the following words have the meanings indicated.

(2) "Affected dwelling unit" means a dwelling unit, as defined in § 7–303 of this subtitle, where the utility service:

(i) is in the landlord's name;

(ii) is delivered through a single meter to a single dwelling unit; and

(iii) does not use a master meter.

(3) "Co–occupant" means two or more adults who occupy the same dwelling unit as their primary domicile or legal residence within the State.

(4) "Landlord" means an owner of an affected dwelling unit who leases the affected dwelling unit to a tenant.

(5) "Tenant" means an occupant of an affected dwelling unit who:

(i) has a valid oral or written lease to reside in the affected dwelling unit; and

(ii) is not a co–occupant with the landlord in the affected dwelling unit.

(6) "Utility service" means gas or electric service provided to an affected dwelling unit by a public service company that is regulated by the Commission.

(7) "Utility service provider" means a public service company that:

(i) provides gas or electric service; and

(ii) is regulated by the Commission.

(c) If utility service at an affected dwelling unit is subject to the threat of termination or actual termination, a tenant residing in the affected dwelling unit:

(1) may apply for a new utility service account in the tenant's name; and

(2) may not incur liability for charges due on the landlord's account.

(d) (1) Subject to paragraphs (2) and (3) of this subsection, when a tenant applies for a new utility service account under subsection (c)(1) of this section, a utility service provider shall establish a new utility service account for the affected dwelling unit in the name of the tenant if the tenant meets the requirements of all applicable laws, regulations, and tariffs.

(2) A utility service provider may, in accordance with applicable laws, regulations, and tariffs, require a tenant to pay a deposit and past due balances from previous accounts in the tenant's name before establishing a new utility service account in the tenant's name.

(3) A utility service provider may not refuse or otherwise condition a tenant's ability to establish a new utility service account in the tenant's name because of arrearages on the landlord's account.

(e) Notwithstanding any other law governing the protection of customer information, if the billing address for a utility service account is different from the service address for the same utility service account and a utility service provider sends a termination notice to the billing address, the utility service provider shall:

(1) send a termination notice to the service address by first–class mail or post a termination notice in a conspicuous location at the service address at least 14 days before terminating utility service to the affected dwelling unit;

(2) ensure that the notice contains:

(i) the earliest date that service will be terminated; and

(ii) the telephone number the tenant may call to obtain further information;

(3) address the notice to "All Occupants"; and

(4) enclose the notice in an envelope that states on the address side, in bold, capitalized letters in at least 12–point type, the following: "IMPORTANT NOTICE TO ALL OCCUPANTS: UTILITY TERMINATION PENDING".

(f) If the billing address for a utility service account is the same as the service address for the same utility service account and the utility service provider sends a termination notice, the notice shall be enclosed in an envelope, the address side of which shall have a written notice stating in bold, capitalized letters in at least 12–point type, the following: "IMPORTANT NOTICE TO ALL OCCUPANTS: UTILITY TERMINATION PENDING".

(g) A tenant may deduct from rent due to a landlord the amount of payments made to a utility service provider in accordance with § 8–212.3 of the Real Property Article.

(h) In a rate proceeding filed under Title 4, Subtitle 2 of this article, the Commission shall authorize the full and timely cost recovery of a utility service provider's prudently incurred costs arising from its obligations under this section.

§7–310.

(a) In this section, "Fund" means the Education and Protection Fund.

(b) There is an Education and Protection Fund.

(c) The purpose of the Fund is to provide resources to improve the Commission's ability to:

(1) educate customers on:

(i) retail electric and gas choice; and

(ii) energy choices that help meet the State's climate commitments under § 7–319 of this subtitle and § 2–1204.2 of the Environment Article;

(2) protect customers from unfair, false, misleading, or deceptive practices by electricity suppliers, energy salespersons, energy vendors, or gas suppliers; and

(3) develop a training and educational program for electricity suppliers, gas suppliers, energy salespersons, and energy vendors as provided under § 7–311 of this subtitle.

(d) The Commission shall administer the Fund.

(e) (1) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(2) The State Treasurer shall hold the Fund separately, and the Comptroller shall account for the Fund.

(f) The Fund consists of:

(1) revenue distributed to the Fund under § 13–201(e)(3) of this article;

(2) money appropriated in the State budget to the Fund; and

(3) any other money from any other source accepted for the benefit of the Fund.

(g) The Fund may be used only to:

(1) educate retail electric or gas customers on retail choice and energy choices that help to meet the State's climate commitments under § 7–319 of this subtitle and § 2–1204.2 of the Environment Article;

(2) improve customer protections for retail electric or gas customers; and

(3) develop a training and educational program for electricity suppliers, gas suppliers, energy salespersons, and energy vendors as provided under § 7–311 of this subtitle.

(h) (1) The State Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.

(2) Any investment earnings of the Fund shall be credited to the General Fund of the State.

(i) Expenditures from the Fund may be made only in accordance with the State budget.

§7–311.

(a) The Commission shall develop a training and educational program for any entity or individual that is licensed by the Commission as an electricity supplier, a gas supplier, an energy salesperson, or an energy vendor.

(b) The Commission shall develop the program in consultation with interested stakeholders, including electricity suppliers, gas suppliers, energy salespersons, and energy vendors.

(c) The program shall require that a designated representative of each licensed electricity supplier, licensed gas supplier, licensed energy vendor, or licensed energy salesperson demonstrate a thorough understanding of the Commission's regulations regarding:

(1) sales;

(2) consumer protection; and

(3) any other matter the Commission deems appropriate.

(d) At the conclusion of the training, the Commission shall:

(1) conduct an examination; and

(2) on a satisfactory score, certify that the designated representative of the licensed electricity supplier, licensed gas supplier, licensed energy salesperson, or licensed energy vendor has successfully completed the training.

(e) (1) The Commission shall determine the schedule and frequency by which a designated representative of a licensed electricity supplier, licensed gas supplier, licensed energy salesperson, or licensed energy vendor must complete the training and certification.

(2) A designated representative of a new electricity supplier, gas supplier, energy salesperson, or energy vendor shall complete the training and certification prior to the issuance of a license.

(f) The Commission may adopt regulations that include appropriate penalties or sanctions for failure to comply with this section.

(g) (1) The Commission shall use the following funding sources for the initial development of the training and educational program:

(i) the assessments collected in accordance with § 2–110 of this article; or

(ii) funds deposited into the Education and Protection Fund in accordance with § 7–310 of this subtitle.

(2) The Commission may establish reasonable fees to pay for the costs of the program.

§7–312.

(a) On request of a retail electricity customer, an electric company shall provide to the customer the historic usage and billing information for the customer's account for not less than the preceding 12 months.

(b) The electric company shall make the information under subsection (a) of this section available to the customer in one of the following forms, as requested by the customer:

(1) information accessible to the customer on the electric company's website;

(2) information provided electronically to the customer in a searchable PDF format; or

(3) a physical document sent to the customer at the customer's billing address.

§7–313.

(a) (1) In this section the following words have the meanings indicated.

(2) "Gas service regulator" means an instrument that:

(i) is installed to a meter inlet to control the gas pressure being introduced into a structure; and

(ii) includes a relief valve to vent excess gas to the outside atmosphere if the pressure of the regulated gas exceeds a specified pressure.

(3) "Multifamily residential structure" means a building containing six or more dwelling units, including:

(i) an apartment house;

(ii) a boarding house;

(iii) a convent;

(iv) a dormitory;

(v) a fraternity or sorority house;

(vi) a hotel or motel;

(vii) a monastery;

(viii) a vacation time–share property;

(ix) a condominium, as defined in § 11–101 of the Real Property Article; and

(x) a cooperative project, as defined in § 5–6B–01 of the Corporations and Associations Article.

(b) (1) Whenever gas service is newly installed at an occupied structure, a gas service regulator may be installed only outside the structure.

(2) Any existing gas service regulator that is installed in the interior of a multifamily residential structure shall be relocated to the outside of the structure whenever the gas service line or regulator is replaced.

(3) On or before January 1, 2022, a gas company shall file a plan with the Commission to relocate any gas service regulator that provides service to a multifamily residential structure.

(4) (i) On or before January 1, 2023, the Commission shall issue a final order approving or disapproving a gas company's plan submitted under

paragraph (3) of this subsection to relocate any gas service regulator after considering:

1. the number of gas service regulators designated for relocation in the gas company's service territory;

2. the availability of qualified personnel to safely relocate gas service regulators;

3. the engineering and permitting challenges within the gas company's service territory;

4. a schedule for relocating gas service regulators that is consistent with the public interest;

5. any other gas company programs, innovations, initiatives, priorities, or investments that improve the safety or reliability of the gas system;

6. any other factor identified by the Commission; and

7. whether the gas company has:

A. made every reasonable effort to expeditiously address any factors that may contribute to a delay in relocating gas service regulators; and

B. committed to a reasonable implementation timeline that does not unduly delay regulator relocation.

(ii) 1. If the Commission issues an order approving a gas company's plan, the order shall include any conditions of approval that the Commission requires.

2. If the Commission issues an order disapproving a gas company's plan, the gas company shall submit a new plan to the Commission within 60 days after the Commission issues the disapproval.

(5) The Commission may exempt a gas service regulator from the requirements of this subsection if the Commission finds that an exemption is warranted after considering:

(i) whether granting the exemption is consistent with the public interest;

(ii) conflicts with federal, State, or local laws or regulations;

(iii) physical obstructions or space constraints;

(iv) any other factor identified by the Commission; and

(v) whether the gas company has:

1. made every reasonable effort to expeditiously address any factor that may contribute to a delay in relocating gas service regulators; and

2. committed to a reasonable implementation timeline that does not unduly delay regulator relocation.

(6) The Commission may delegate the authority to grant exemptions under this subsection to the Commission's technical staff division.

(c) (1) A gas service regulator shall be installed away from roads, driveways, parking areas, or other locations exposed to vehicular traffic or other external forces that may damage the gas service regulator.

(2) If it is impractical to install a gas service regulator in accordance with paragraph (1) of this subsection, guards shall be installed to protect the gas service regulator from external forces that may damage the gas service regulator.

(3) Guards may consist of posts, bollards, railings, or any other safety structure that will prevent damage to the gas service regulator.

(d) (1) Subject to paragraph (2) of this subsection, on or before February 1, 2023, and each year thereafter, a gas company shall report to the Commission on progress through the end of the immediately preceding calendar year on the implementation of the plan approved under subsection (b) of this section.

(2) This subsection may not be construed to apply to a gas company that has fully implemented an approved plan under subsection (b) of this section.

(e) On or before March 1 each year, beginning in 2023, the Commission shall provide a report to the Governor and, in accordance with § 2–1257 of the State Government Article, the General Assembly on each gas company's progress in relocating gas service regulators in accordance with this section.

§7–314.

(a) This section applies to electric companies, electric cooperatives, and municipal utilities that offer customer choice for competitive electricity supply under Subtitle 5 of this title.

(b) A residential electric customer who has a change in the service address associated with the customer's electricity account may maintain the customer's competitive electricity supply contract for the new address if the new address is within the same electric territory as the old address.

(c) An electric company may not terminate a customer's contract due to a change of address for the service address associated with the contract if the requirements under subsection (b) of this section are met.

(d) An electric company shall make any changes necessary to accommodate a customer's change of address on notification by the customer.

§7–315.

(a) (1) In this section, "residential energy retailer" includes:

(i) an electricity supplier that supplies electricity to residential retail electric customers;

(ii) a gas supplier that supplies gas to residential retail gas customers;

(iii) an energy salesperson; and

(iv) an energy vendor.

(2) "Residential energy retailer" does not include:

(i) the Department of General Services when the Department of General Services sells energy under § 7–704.4 of this title;

(ii) a community choice aggregator under § 7–510.3 of this title;

(iii) an electricity supplier when supplying electricity to commercial retail electric customers; or

(iv) a gas supplier that supplies gas to commercial retail gas customers.

(b) The Commission may adopt regulations to:

(1) require a residential energy retailer to post notices and disclosures required under this title on the retailer's website:

(i) in a prominent location;

(ii) using at least a certain minimum font size; and

(iii) in a format approved by the Commission; and

(2) require or prohibit the use of specific language in a residential energy retailer's marketing materials, disclaimers, disclosures, and legal documents, including requiring or prohibiting the use of specific language based on service or product type.

(c) The Commission shall require a residential energy retailer to post on the retailer's website, in clear and unambiguous language:

(1) the terms and conditions of the residential services and products sold by the retailer; and

(2) an environmental disclosure, in a format required by the Commission, for the residential services and products sold by the retailer.

§7–316.

(a) In this section, "marketing" does not include materials to educate or inform a retail customer about standard offer service, default gas commodity service, or customer choice.

(b) Except as provided in subsection (d) of this section, an electric company or a gas company may not recover through its rates any costs associated with marketing its services.

(c) An electric cooperative may recover through its rates any costs associated with marketing its services, including the costs associated with materials that educate or inform a retail customer about standard offer service or customer choice.

(d) The Commission may, by regulation, adopt criteria for reviewing marketing and other communication materials of an electric company or a gas

company to determine whether the cost of the materials may be recovered through the company's rates.

§7–317.

(a) (1) Beginning July 1, 2025, a person may not engage in the business of an energy salesperson in the State unless the person holds a license issued by the Commission.

(2) A licensed energy salesperson may offer or sell electricity supply agreements or gas supply agreements to customers in the State only if the energy salesperson is associated with a licensed electricity supplier or licensed gas supplier, respectively.

(b) (1) An application for an energy salesperson license shall:

(i) be made to the Commission in writing on a form adopted by the Commission;

(ii) be verified by oath or affirmation; and

(iii) contain information that the Commission requires, including:

1. proof of association with a licensed electricity supplier or licensed gas supplier, as appropriate;

2. proof of compliance with all applicable training requirements for customer protection under this subtitle and Subtitles 5 and 6 of this title as required by the Commission; and

3. payment of the applicable licensing fee.

(2) (i) The term of an energy salesperson license is 3 years.

(ii) The terms of licenses may be staggered as determined by the Commission.

(iii) Subject to subparagraph (v) of this paragraph, unless a license is renewed for a 3–year term in accordance with this subsection, the license expires on the date that the Commission sets.

(iv) A licensee may renew a license for a 3–year term before the license expires if the licensee:

1. otherwise is entitled to be licensed;

2. submits to the Commission a renewal application on the form that the Commission provides; and

3. pays to the Commission the applicable renewal fee set by the Commission.

(v) A licensee may continue to provide services as an energy salesperson after the licensee's license expires if the licensee's renewal application is submitted to the Commission before the license expires.

(c) The Commission shall, by regulation or order:

(1) require proof of financial integrity;

(2) require a licensee to post a bond or other similar instrument if, in the Commission's judgment, the bond or similar instrument is necessary to ensure an energy salesperson's financial integrity; and

(3) adopt any other requirements the Commission finds to be in the public interest.

(d) A license issued under this section may not be transferred without prior Commission approval.

§7–318.

(a) Beginning July 1, 2025, a person may not engage in the business of an energy vendor in the State unless the person holds a license issued by the Commission.

(b) (1) An application for an energy vendor license shall:

(i) be made to the Commission in writing on a form adopted by the Commission;

(ii) be verified by oath or affirmation; and

(iii) contain information that the Commission requires, including payment of the applicable licensing fee.

(2) (i) The term of an energy vendor license is 3 years.

(ii) The terms of licenses may be staggered as determined by the Commission.

(iii) Unless a license is renewed for a 3–year term in accordance with this subsection, the license expires on the date that the Commission sets.

(iv) A licensee may renew a license for a 3–year term before the license expires if the licensee:

1. otherwise is entitled to be licensed;

2. submits to the Commission a renewal application on the form that the Commission provides; and

3. pays to the Commission the applicable renewal fee set by the Commission.

(c) The Commission shall, by regulation or order:

(1) require proof of financial integrity;

(2) require a licensee to post a bond or other similar instrument if, in the Commission's judgment, the bond or similar instrument is necessary to ensure an energy vendor's financial integrity; and

(3) adopt any other requirements the Commission finds to be in the public interest.

(d) A license issued under this section may not be transferred without prior Commission approval.

§7–319.

(a) In this section, "low–emissions housing" means housing that is engineered to or uses measures that reduce greenhouse gas emissions.

(b) There is a Green and Healthy Task Force.

(c) The Task Force consists of the following members:

(1) two members of the Senate of Maryland, appointed by the President of the Senate;

(2) two members of the House of Delegates, appointed by the Speaker of the House;

(3) the Secretary of Housing and Community Development, or the Secretary's designee;

(4) the Secretary of Human Services, or the Secretary's designee;

(5) the Director of the Maryland Energy Administration, or the Director's designee;

(6) one representative of the Office of People's Counsel; and

(7) as appointed by the chair of the Task Force:

(i) one representative of the Maryland Affordable Housing Trust;

(ii) one representative of the Green and Healthy Homes Initiative;

(iii) one representative of Maryland Energy Efficiency Advocates;

(iv) one member who is an expert in public health;

(v) one member from a community concerned with environmental justice;

(vi) one member who owns or develops affordable housing;

(vii) one member who has received assistance from a low–income program that delivers energy efficiency measures; and

(viii) other members as determined by the chair of the Task Force.

(d) The Secretary of Housing and Community Development, or the Secretary's designee, shall serve as chair of the Task Force.

(e) The Department of Housing and Community Development shall provide staff for the Task Force.

(f) A member of the Task Force:

(1) may not receive compensation as a member of the Task Force; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(g) The Task Force shall:

(1) beginning July 1, 2023, meet quarterly for a period of 3 years;

(2) advance the alignment, branding, and coordination of resources to more effectively deliver green and healthy housing for low–income households in the State;

(3) examine the public and private resources needed to address the housing needs of low–income communities;

(4) develop policy and statutory recommendations to eliminate barriers to low–income households achieving healthy, energy–efficient, affordable, and low–emissions housing; and

(5) engage with interested parties and collaborate with other entities that can help advance the goals of the Task Force, including experts in the field of healthy, energy–efficient, and low–emissions housing.

(h) On or before July 1, 2024, and each July 1 through 2027, the Task Force shall report its findings and recommendations to the Secretary of Health, the Secretary of the Environment, the Commission, the Governor, and, in accordance with § 2–1257 of the State Government Article, the General Assembly.

§7–320.

(a) This section applies only to residential rooftop solar energy generating systems.

(b) A seller or lessor of residential rooftop solar energy generating systems shall:

(1) provide to the buyer or lessee a 5–year full warranty on the installation and component parts of the system;

(2) include any manufacturer's warranties for any of the products or components of the system;

(3) inform the buyer or lessee of the minimum level of weather–adjusted energy production the buyer or lessee may expect from the system; and

(4) certify, in writing, that installation of the system is compliant with all federal, State, and local laws regarding workmanship and that the solar panels, inverters, racking systems, and all other components meet the minimum standards for product design.

(c) The Maryland Department of Labor shall:

(1) develop a special solar contractor license for the installation and maintenance of residential rooftop solar energy generating systems; and

(2) establish minimum qualifications for individuals installing and maintaining residential rooftop solar energy generating systems.

(d) A seller or lessor who violates the requirements of this section shall pay a fine not exceeding $1,000 for each violation.

§7–401.

(a) In this subtitle the following words have the meanings indicated.

(b) "B.T.U." means a British Thermal Unit which is the quantity of heat required to raise the temperature of 1 pound of water 1 degree Fahrenheit.

(c) "Builder" means:

(1) the person with whom the owner of a building enters into a contract or agreement to be principally responsible for the construction of the building, either individually or as a general contractor; or

(2) the owner of a building, if the owner constructs the building or serves as the owner's own general contractor.

(d) (1) "Building" means any new structure that:

(i) is designed for human use or occupancy;

(ii) provides a method of controlling energy usage within its exterior envelope; and

(iii) as designed, does not have a peak design rate of energy usage per square foot of floor area of less than 3.5 B.T.U. per hour or 1 watt.

(2) "Building" includes any portion of an otherwise excluded new structure if that portion of the structure is primarily for human use or occupancy because the exterior envelopes, heating, venting and air conditioning systems, service water heating, and electrical distribution and illuminating systems are designed for that portion of the structure that is primarily for human use or occupancy.

(3) "Building" does not include:

(i) an addition to an existing structure or a single-family dwelling that is to constitute the principal residence of the builder;

(ii) a structure with a permanent heating and cooling system that utilizes a source other than natural gas, a petroleum product, or electricity;

(iii) an industrialized building as defined in § 12-301 of the Public Safety Article that bears an insignia furnished by the Department of Housing and Community Development under Title 12, Subtitle 3 of the Public Safety Article; and

(iv) a manufactured home as defined in § 12-301 of the Public Safety Article that bears an insignia issued by the Department of Housing and Community Development under Title 12, Subtitle 3 of the Public Safety Article.

(e) "Energy Code" means energy conservation standards adopted under COMAR 05.02.07.04 Maryland Building Performance Standards (MBPS) under the authority of Title 12, Subtitle 5 of the Public Safety Article.

(f) "Political subdivision" means a county, Baltimore City, or a municipal corporation.

§7–402.

Except as provided in § 7-406(c) of this subtitle, the provisions of this subtitle do not apply to any building constructed within the boundaries of a political subdivision if:

(1) the political subdivision has adopted the Energy Code; and

(2) the Energy Code adopted by the political subdivision applies to the building being constructed.

§7–403.

(a) (1) Except as provided in paragraph (2) of this subsection and § 7–404 of this subtitle, a builder of any building that is completed after July 1, 1982, shall certify under oath to the electric company designated to provide electric service to the building that the building meets the latest edition of the Energy Code.

(2) If the building was designed while the immediately preceding edition of the Energy Code was in effect and the building was constructed in accordance with the then preceding edition of the Energy Code, the builder may so certify in order to satisfy the requirements of this section.

(b) (1) The certification shall be made on a form that is provided by the Department of Housing and Community Development.

(2) The certificate shall contain a statement to the effect that any action brought by the first purchaser against the builder under § 7–406(b) of this subtitle may be brought within 3 years after the date on which the builder provided the first purchaser with a copy of the certificate or the waiver as provided in § 7–406(a) of this subtitle.

(c) (1) The builder shall file the certificate with the electric company in person or by certified mail, return receipt requested.

(2) If the builder is a corporation, the certificate shall be submitted under oath by an officer of the corporation.

§7–404.

(a) Subject to the provisions of this section, the Department of Housing and Community Development may grant a waiver from the certification requirements specified in § 7-403 of this subtitle for any building:

(1) to which a significant commitment had been made to its design or construction prior to January 1, 1982; and

(2) for which imposition of energy conservation standards under this subtitle would pose a substantial financial hardship.

(b) For any waiver granted under this section, the Department shall issue a written statement that clearly identifies the building affected and that specifies that the Department has granted a waiver from the energy conservation requirements of this subtitle.

(c) To be effective, the builder shall file the statement of waiver issued by the Department of Housing and Community Development in person or by certified

mail, return receipt requested, with the electric company designated to provide electric service to the building.

§7–405.

(a) (1) Except as provided in paragraph (2) of this subsection, an electric company may not provide electric service to any building on which construction is completed after July 1, 1982, unless the builder has filed with the company the certificate or statement of waiver that is required under this subtitle.

(2) Paragraph (1) of this subsection does not apply to the temporary provision of electric service for use only during the process of constructing a building.

(b) If it is later determined that a building did not conform to the energy conservation standards to which the builder has certified or that a false waiver was provided to the electric company by the builder, the electric company may not be held liable for that noncompliance.

(c) (1) Certificates and statements of waiver filed with an electric company under this subtitle shall be made available to the public.

(2) The electric company:

(i) shall provide a copy of any certificate or statement of waiver that it has on file to any person on request within a reasonable time not to exceed 5 working days; and

(ii) may charge a reasonable fee for any copy of a certificate or statement of waiver that it provides.

(3) The electric company is not required to retain a certificate or a statement of waiver filed with the electric company under this subsection beyond 3 years from the date the certificate or statement of waiver was filed with the electric company.

§7–406.

(a) (1) A builder subject to the provisions of this subtitle shall:

(i) provide the first purchaser of the building with a copy of the certificate that is filed with the electric company; or

(ii) if the builder was issued a waiver under § 7–404 of this subtitle, provide the first purchaser with a copy of the statement of waiver.

(2) If the first purchaser of the building resells the building without having occupied or rented it, at the time of the resale, the first purchaser shall provide the next purchaser with the copy of the certificate or the statement of waiver.

(b) (1) If a builder fails to comply with the energy conservation standards required for certification under this subtitle, or the builder fails to obtain a statement of waiver under this subtitle, the builder is liable to the first purchaser who either occupies or rents the building for an amount not to exceed $2,000 and for:

(i) the cost of bringing the building into compliance with the standards required under this subtitle;

(ii) the reasonable attorney's fees and court costs of the purchaser; and

(iii) any reasonable costs incurred by the purchaser in determining that the builder did not comply with the energy conservation standards required under this subtitle.

(2) An action under this subsection may not be brought more than 3 years after the date on which the builder provided the purchaser with a copy of the certificate or the waiver.

(3) If the builder is a corporation and the corporation is dissolved, the purchaser may bring any action authorized under this subsection against any person who was an officer of the corporation at the time that the alleged violation occurred.

(c) (1) In any political subdivision that has adopted the Energy Code, if a builder of a building that is completed after July 1, 1982, willfully deviates from the approved plans for the building, the builder is liable to the first purchaser who either occupies or rents the building for an amount not to exceed $2,000 and for:

(i) the cost of bringing the building into compliance with the Energy Code;

(ii) the reasonable attorney's fees and court costs of the purchaser; and

(iii) any reasonable costs incurred by the purchaser in determining that the builder did not comply with the Energy Code.

(2) An action under this subsection may not be brought more than 3 years after the date on which a use and occupancy permit is issued for the building by the political subdivision in which the building is located.

(3) If the builder is a corporation and the corporation is dissolved, the purchaser may bring any action authorized under this subsection against any person who was an officer of the corporation at the time that the alleged violation occurred.

(4) The provisions of paragraph (1) of this subsection are in addition to any other remedies available under State or local law.

§7–407.

(a) A person who fails or causes another to fail to submit a certification or statement of waiver to an electric company as required by this subtitle and a person who knowingly submits or knowingly causes to be submitted a false certification or statement of waiver, is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $5,000.

(b) An electric company that knowingly provides service in violation of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $5,000.

§7–408.

This subtitle may be cited as the Energy Conservation Building Standards Act.

§7–501.

(a) In this subtitle the following words have the meanings indicated.

(b) "Affiliate" means a person that directly or indirectly, or through one or more intermediaries, controls, is controlled by, or is under common control with, or has, directly or indirectly, any economic interest in another person.

(c) (1) "Assignee" means a person to whom an electric company assigns or transfers all or a portion of its interest in intangible transition property, other than as security.

(2) "Assignee" includes a person to whom all or a portion of the interest is subsequently assigned or transferred.

(d) "Competitive transition charge" means a rate, charge, credit, or other appropriate mechanism authorized to be imposed for the recovery of transition costs as determined by the Commission under § 7–513 of this subtitle.

(e) "Consumer" and "customer" each means a retail electric customer.

(f) "Customer choice" means the right of electricity suppliers and customers to utilize and interconnect with the electric distribution system on a nondiscriminatory basis at rates, terms, and conditions of service comparable to the electric company's own use of the system to distribute electricity from an electricity supplier to a customer, under which a customer has the opportunity to purchase electricity from the customer's choice of licensed electricity suppliers.

(g) "Distribution territory" means the geographic area in which an electric company was providing electric transmission or distribution services to customers on July 1, 1999.

(h) "Independent system operator" means an entity authorized by the Federal Energy Regulatory Commission to control a regional transmission grid.

(i) "Initial implementation date" means:

(1) July 1, 2000, for investor–owned electric companies;

(2) the date or dates determined by the Commission for Electric Cooperatives and Municipal Electric Utilities; or

(3) another date or dates determined by the Commission under § 7–510(b) of this subtitle.

(j) "Intangible transition charge" means a nonbypassable rate, charge, or similar appropriate mechanism for the provision, availability, or termination of electric service, authorized to be imposed for the recovery of qualified transition costs under a qualified rate order of the Commission.

(k) "Intangible transition property" means the right, title, and interest of an electric company or assignee in a qualified rate order, including:

(1) all rights in, to, and under the order, including rights to revenues, collections, claims, payments, money, or other property and amounts arising from the imposition of intangible transition charges under the order; and

(2) in the hands of an assignee:

(i) the right to require the electric company to provide electric services, and to collect and remit the intangible transition charges authorized in the qualified rate order; but

(ii) not the right or duty to provide electric services.

(l) (1) "Public purpose program" means a program implemented with the intention of furthering a public purpose.

(2) "Public purpose program" includes:

(i) a universal service program;

(ii) a program encouraging renewable energy resources;

(iii) a demand side management or other energy efficiency or conservation program; and

(iv) a consumer education program.

(m) "Qualified rate order" means an order of the Commission approving one or more intangible transition charges.

(n) "Standard offer service" means electric service that an electric company must offer to its customers under § 7–510(c) of this subtitle.

(o) "Transition bond" means a bond, debenture, note, certificate of participation or beneficial interest, or other evidence of indebtedness or ownership, approved in a qualified rate order and issued under an executed trust indenture or other agreement of an electric company or assignee, and which is secured by, evidences ownership interest in, or is payable from intangible transition property.

(p) "Transition cost" means a cost, liability, or investment that:

(1) traditionally would have been or would be recoverable under rate–of–return regulation, but which may not be recoverable in a restructured electricity supply market; or

(2) arises as a result of electric industry restructuring and is related to the creation of customer choice.

(q) (1) "Universal service program" means a program that helps low–income customers maintain electric service.

(2) "Universal service program" includes customer bill assistance and payment programs, termination of service protection, and policies and services that help low–income customers to reduce or manage energy consumption in a cost–effective manner.

§7–502.

(a) Except as required under subsection (b) of this section, the provisions of this subtitle may not be applied to a small rural electric cooperative that:

(1) has less than 10% of its distribution territory within the State;

(2) maintains its principal place of business outside the State; and

(3) is subject to, and conducts its operations within the State in compliance with, the laws of the state in which its principal place of business is located.

(b) (1) A small rural electric cooperative, as described in subsection (a) of this section, shall be subject to all requirements and prohibitions adopted under the authority of §§ 7-505(b)(1) through (4), (6), (7), (11), and (12) and 7-507(e), (h), (i), (k), and (l) of this subtitle.

(2) In addition to the requirements for a small rural electric cooperative set forth in paragraph (1) of this subsection, a member of a small rural electric cooperative that receives electricity or electricity supply services from an entity other than the small rural electric cooperative may receive these services only from an entity that is licensed under § 7-507 of this subtitle.

§7–504.

The General Assembly finds and declares that the purpose of this subtitle is to:

(1) establish customer choice of electricity supply and electricity supply services;

(2) create competitive retail electricity supply and electricity supply services markets;

(3) deregulate the generation, supply, and pricing of electricity;

(4) provide economic benefits for all customer classes; and

(5) ensure compliance with federal and State environmental standards.

§7–505.

(a) (1) In assessing and approving each electric company's restructuring plan, and overseeing the transition process and regulation of the restructured electric industry, the Commission shall provide that the transition to a competitive electricity supply and electricity supply services market shall be orderly, maintain electric system reliability, and ensure compliance with federal and State environmental regulations, be fair to customers, electric company investors, customers of municipal electric utilities, electric companies, and electricity suppliers, and provide economic benefits to all customer classes.

(2) The Commission shall consider the restructuring plans of municipal electric utilities, as specified under § 7–510 of this subtitle.

(b) (1) The Commission shall issue the orders or adopt the regulations required under this subsection before the implementation of customer choice.

(2) The Commission shall order a universal service program, to be made available on a statewide basis, to benefit low–income customers, in accordance with § 7–512.1 of this subtitle.

(3) The Commission shall order an electric company to adopt policies and practices reasonably designed to prevent:

(i) discrimination against a person, locality, or particular class of service or giving undue or unreasonable preference in favor of the electric company's own electricity supply, other services, divisions, or affiliates, if any; and

(ii) any other forms of self–dealing or practices that could result in noncompetitive electricity prices to customers.

(4) (i) The Commission shall, by regulation or order, require each electric company and electricity supplier to provide adequate and accurate information to each customer on the available electric services of the electric company or electricity supplier, including disclosure, every 6 months, of a uniform common set of information about:

1. the fuel mix of the electricity purchased by customers, including categories of electricity from coal, natural gas, nuclear, oil, hydroelectric, solar, biomass, wind, and other resources, or disclosure of a regional fuel mix average; and

2. the emissions, on a pound per megawatt–hour basis, of pollutants identified by the Commission, or disclosure of a regional fuel mix average.

(ii) The Commission may require an electric company or an electricity supplier to provide documentation supporting the disclosures required under subparagraph (i) of this paragraph.

(5) (i) The Commission shall, by regulation or order, require the unbundling of electric company rates, charges, and services into standardized categories determined by the Commission.

(ii) The Commission shall, by regulation or order, require that customers' bills for electricity service indicate charges for:

1. distribution and transmission;

2. transition charge or credit;

3. universal service program charges;

4. customer charges;

5. taxes; and

6. other charges identified by the Commission.

(6) The Commission shall issue orders or regulations to prevent an electric company and an electricity supplier from disclosing a retail electric customer's billing, payment, and credit information without the retail electric customer's consent, except as allowed by the Commission for bill collection or credit rating reporting purposes.

(7) An electricity supplier may not engage in marketing, advertising, or trade practices that are unfair, false, misleading, or deceptive.

(8) The Commission shall determine the terms, conditions, and rates of standard offer service in accordance with:

(i) Title 4 of this article; or

(ii) as applicable, § 7–510(c)(4) of this subtitle.

(9) In connection with § 7–513 of this subtitle, the Commission may not require an electric company to divest itself of a generation asset or prohibit an electric company from divesting itself voluntarily of a generation asset.

(10) (i) On or before July 1, 2000, the Commission shall issue orders or adopt regulations reasonably designed to ensure the creation of competitive electricity supply and electricity supply services markets, with appropriate customer safeguards.

(ii) On or before July 1, 2000, the Commission shall require:

1. an appropriate code of conduct between the electric company and an affiliate providing electricity supply and electricity supply services in the State;

2. access by electricity suppliers and customers to the electric company's transmission and distribution system on a nondiscriminatory basis;

3. appropriate complaint and enforcement procedures; and

4. any other safeguards deemed necessary by the Commission to ensure the creation and maintenance of a competitive electricity supply and electricity supply services market.

(iii) On or before July 1, 2000, the Commission shall require, among other factors, functional, operational, structural, or legal separation between the electric company's regulated businesses and its nonregulated businesses or nonregulated affiliates.

(11) Nothing in this title may be construed as preventing the application of State and federal consumer protection and antitrust laws to electric companies and their affiliates, and to electricity suppliers.

(12) The Commission, in consultation with the Department of the Environment, shall adopt appropriate measures to maintain environmental standards, adapt existing programs, and develop new programs as appropriate to ensure compliance with federal and State environmental protection standards.

(13) (i) An electric company shall comply with all requirements of the Commission in conducting regulated operations in compliance with this division.

(ii) The Commission shall require each electric company to adopt a code of conduct to be approved by the Commission by a date to be determined by the Commission to prevent regulated service customers from subsidizing the services of unregulated businesses or affiliates of the electric company.

(c) (1) Notwithstanding any other provision of law, including subsection (d) of this section, and subject to § 4–213 of this article, the Commission may regulate the regulated services of an electric company through alternative forms of regulation.

(2) The Commission may adopt an alternative form of regulation under this section if the Commission finds, after notice and hearing, that the alternative form of regulation:

(i) protects consumers;

(ii) ensures the quality, availability, and reliability of regulated electric services; and

(iii) is in the interest of the public, including shareholders of the electric company.

(3) Alternative forms of regulation may include:

(i) price regulation, including price freezes or caps;

(ii) revenue regulation;

(iii) ranges of authorized return;

(iv) rate of return;

(v) categories of services; or

(vi) price–indexing.

(d) (1) The Commission shall cap, for 4 years after initial implementation of customer choice in the electric company's distribution territory, the total of the rates of an electric company charged to a retail electric customer at the actual level of the rates in effect or authorized by the Commission on the date immediately preceding the initial implementation of customer choice in the electric company's distribution territory.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, the cap required under paragraph (1) of this subsection does not apply to the recovery of costs added after January 1, 2000, in accordance with § 7–512(c) of this subtitle.

(ii) The cap required under paragraph (1) of this subsection applies to the recovery of:

1. any transition costs under § 7–513 of this subtitle;

2. any costs included in rates on January 1, 2000, in accordance with § 7–512(c) of this subtitle; and

3. costs for the universal service program established under § 7–512.1 of this subtitle.

(3) As part of a settlement, the Commission may approve a cap for a different time period or an alternative price protection plan that the Commission determines is equally protective of ratepayers.

(4) (i) 1. Subject to the provisions of paragraph (5) of this subsection, the Commission shall reduce residential rates for each investor–owned electric company by an amount between 3% and 7.5% of base rates, as measured on June 30, 1999.

2. The reduction required under subsubparagraph 1 of this subparagraph shall begin on the initial implementation date and remain in effect for 4 years.

3. The Commission shall determine the allocation of the rate reduction among the generation, transmission, and distribution residential rate components.

(ii) In achieving the rate reduction required under subparagraph (i) of this paragraph, the Commission shall consider:

1. the expiration of any surcharge;

2. changes in the electric company's tax liability;

3. cost of service determinations ordered by the Commission;

4. net transition costs or benefits;

5. the effect on the competitive electricity supply market;

6. whether the rate reduction and rate cap will unduly impair the electric company's financial condition;

7. the costs associated with the universal service program; and

8. the interests of the public, including shareholders of the electric company.

(iii) The Commission may, within the parameters provided in subparagraph (i) of this paragraph, increase or decrease the actual rate reduction required.

(iv) The Commission may allow the recovery of any extraordinary costs based on the circumstances of an individual electric company if the Commission determines that the action is necessary and in the public interest.

(v) In determining the rate reduction required under subparagraph (i) of this paragraph, the Commission may not increase rates for nonresidential customers.

(5) The requirements of paragraph (4) of this subsection do not apply to an electric company if the Commission approves or has in effect a settlement that the Commission determines is equally protective of ratepayers.

§7–506.

(a) The electric company in a distribution territory shall provide and be responsible for distribution services in the territory.

(b) The electric company shall provide distribution services in its distribution territory to all customers and electricity suppliers on rates, terms of access, and conditions that are comparable to the electric company's own use of its distribution system.

(c) Each electric company shall maintain the reliability of its distribution system in accordance with § 7–213 of this title and applicable orders, tariffs, and regulations of the Commission.

(d) The electric company shall connect customers and deliver electricity on behalf of electricity suppliers consistent with the provisions of this division.

(e) The electric company shall provide standard offer service under § 7–510(c) of this subtitle.

§7–506.1.

(a) (1) This section applies only to:

(i) an electricity supplier or other owner of a generating station that enters into a contract for the provision of the direct supply of electricity to a commercial or industrial customer in a way that bypasses:

1. interconnection of the load with the electric transmission and distribution systems; or

2. the distribution services of an electric company; and

(ii) a commercial or industrial customer that enters into a contract with an electricity supplier or other owner of a generating station for the provision of the direct supply of electricity as specified in item (i) of this paragraph.

(2) This section does not apply to the use of electricity from an on–site generating station that has been approved under § 7–207.1 of this title.

(b) The Commission may apply to a commercial or industrial customer and any generating station supplying electricity to the commercial or industrial customer in the manner specified in subsection (a)(1) of this section:

(1) any direct or indirect costs, fees, and obligations that are normally applied to retail electric customers in the service territory in which the commercial or industrial customer or generating station is located or interconnected if the Commission determines that the direct or indirect costs, fees, and obligations should be attributable to the commercial or industrial customer and any generating station supplying electricity to the commercial or industrial customer; and

(2) any avoided wholesale costs that the Commission determines have been or may be shifted inappropriately to other retail electric customers as a result of the provision of the direct supply of electricity as specified in subsection (a)(1) of this section, including:

(i) transmission costs;

(ii) energy costs;

(iii) capacity costs; and

(iv) ancillary services costs.

§7–507.

(a) A person, other than an electric company providing standard offer service under § 7–510(c) of this subtitle, a municipal electric utility serving customers solely in its distribution territory, the Department of General Services selling energy under § 7–704.4 of this title, or a community choice aggregator under § 7–510.3 of this subtitle, may not engage in the business of an electricity supplier in the State unless the person holds a license issued by the Commission.

(b) (1) An application for an electricity supplier license shall:

(i) be made to the Commission in writing on a form adopted by the Commission;

(ii) be verified by oath or affirmation; and

(iii) contain information that the Commission requires, including:

1. proof of technical and managerial competence;

2. proof of compliance with all applicable requirements of the Federal Energy Regulatory Commission, and any independent system operator or regional or system transmission operator to be used by the licensee;

3. a certification of compliance with applicable federal and State environmental laws and regulations that relate to the generation of electricity; and

4. payment of the applicable licensing fee.

(2) (i) The term of a residential electricity supplier license is 3 years.

(ii) The terms of licenses may be staggered as determined by the Commission.

(iii) Unless a license for a residential electricity supplier is renewed for a 3–year term in accordance with this subsection, the license expires on the date that the Commission sets.

(iv) A licensee may renew a license for a 3–year term before the license expires if the licensee:

1. otherwise is entitled to be licensed;

2. submits to the Commission a renewal application on the form that the Commission provides; and

3. pays to the Commission the applicable renewal fee set by the Commission.

(c) The Commission shall, by regulation or order:

(1) require proof of financial integrity;

(2) require a licensee to post a bond or other similar instrument if, in the Commission's judgment, the bond or similar instrument is necessary to insure an electricity supplier's financial integrity;

(3) require a licensee to:

(i) provide proof that the licensee is qualified to do business in the State with the Department of Assessments and Taxation; and

(ii) agree to be subject to all applicable taxes; and

(4) adopt any other requirements the Commission finds to be in the public interest, which may include different requirements for:

(i) electricity suppliers that serve only large customers; and

(ii) the different categories of electricity suppliers.

(d) A license issued under this section may not be transferred without prior Commission approval.

(e) The Commission shall adopt regulations or issue orders to:

(1) protect consumers, electric companies, electricity suppliers, energy salespersons, and energy vendors from anticompetitive and abusive practices;

(2) require each electricity supplier, each energy salesperson, and each energy vendor to provide, in addition to the requirements under § 7–505(b)(5) of

this subtitle, adequate and accurate customer information to enable customers to make informed choices regarding the purchase of any electricity services offered by the electricity supplier;

(3) establish reasonable restrictions on telemarketing;

(4) establish procedures for contracting with customers;

(5) establish requirements and limitations relating to deposits, billing, collections, and contract cancellations;

(6) establish provisions providing for the referral of a delinquent account by an electricity supplier to the standard offer service under § 7–510(c) of this subtitle; and

(7) establish procedures for dispute resolution.

(f) In accordance with regulations or orders of the Commission, electricity bills, for competitive and regulated electric services, provided to consumers may provide, in addition to the requirements of § 7–505(b)(5) of this subtitle and subsection (e)(2) of this section, the following information:

(1) the identity and phone number of the electricity supplier of the service;

(2) sufficient information to evaluate prices and services; and

(3) information identifying whether the price is regulated or competitive.

(g) (1) An electricity supplier, an energy salesperson, an energy vendor, or any person or governmental unit may not, without first obtaining the customer's permission:

(i) make any change in the electricity supplier for a customer; or

(ii) add a new charge for a new or existing service or option.

(2) The Commission shall adopt regulations or issue orders establishing procedures to prevent the practices prohibited under paragraph (1) of this subsection.

(h) (1) An electricity supplier, an energy salesperson, or an energy vendor may not discriminate against any customer based wholly or partly on race, color, creed, national origin, gender identity, disability, sexual orientation, or sex of an applicant for service or for any arbitrary, capricious, or unfairly discriminatory reason.

(2) An electricity supplier, an energy salesperson, or an energy vendor may not refuse to provide service to a customer except by the application of standards that are reasonably related to the electricity supplier's economic and business purposes.

(i) An electricity supplier, an energy salesperson, and an energy vendor shall be subject to all applicable federal and State environmental laws and regulations.

(j) An electricity supplier shall post on the Internet information that is readily understandable about its services and rates for small commercial and residential electric customers.

(k) (1) Subject to subsection (r) of this section, for just cause on the Commission's own investigation or on complaint of the Office of People's Counsel, the Attorney General, or an affected party, the Commission may:

(i) deny a license to, or revoke, suspend, or refuse to renew the license of, an electricity supplier, an energy salesperson, or an energy vendor;

(ii) impose a civil penalty or other remedy;

(iii) order a refund or credit to a customer; or

(iv) impose a moratorium on adding or soliciting additional customers by the electricity supplier, energy salesperson, or energy vendor.

(2) A civil penalty may be imposed in addition to the Commission's decision to deny, revoke, suspend, or refuse to renew a license or impose a moratorium.

(3) Just cause includes:

(i) intentionally providing false information to the Commission;

(ii) switching, or causing to be switched, the electricity supply for a customer without first obtaining the customer's permission;

(iii) failing to provide electricity for its customers;

(iv) committing fraud or engaging in deceptive practices;

(v) failing to maintain financial integrity;

(vi) violating a Commission regulation or order;

(vii) failing to pay, collect, remit, or calculate accurately applicable State or local taxes;

(viii) violating a provision of this article or any other applicable consumer protection law of the State;

(ix) conviction of a felony by the licensee or principal of the licensee or any crime involving fraud, theft, or deceit;

(x) denial, suspension, or revocation of or refusal to renew a license by any State or federal authority; and

(xi) commission of any of the acts described in items (i) through (x) of this paragraph by a person that is an affiliate of the licensee or that is under common control with the licensee.

(l) (1) An electricity supplier, an energy vendor, or any other person, except for an energy salesperson, selling or offering to sell electricity in the State in violation of this section or § 7–318 of this title, after notice and an opportunity for a hearing, is subject to:

(i) a civil penalty of not more than $25,000 for the violation;

(ii) license denial, revocation, or suspension or refusal to renew the license; or

(iii) both.

(2) An energy salesperson selling or offering to sell electricity in the State in violation of this section or § 7–317 of this title, after notice and an opportunity for a hearing, is subject to license denial, revocation, or suspension or refusal to renew the license.

(3) Each day or part of a day a violation continues is a separate violation.

(4) Each customer to whom electricity is sold or offered in violation of this section is a separate violation.

(5) The Commission shall determine the amount of any civil penalty after considering:

(i) the number of previous violations of any provision of this division by the electricity supplier, energy vendor, or other person;

(ii) the gravity of the current violation;

(iii) the good faith of the electricity supplier, energy vendor, or other person charged in attempting to achieve compliance after notification of the violation; and

(iv) any other matter that the Commission considers appropriate and relevant.

(m) In connection with a consumer complaint or Commission investigation under this section or § 7–317 or § 7–318 of this title, an electricity supplier, an energy salesperson, energy vendor, and any other person selling or offering to sell electricity in the State shall provide to the Commission access to any accounts, books, papers, and documents that the Commission considers necessary to resolve the matter at issue.

(n) The Commission may order the electricity supplier, energy salesperson, an energy vendor, or other person to cease adding or soliciting additional customers or to cease serving customers in the State.

(o) The Commission shall consult with the Consumer Protection Division of the Office of the Attorney General before issuing regulations designed to protect consumers.

(p) The People's Counsel shall have the same authority in licensing, complaint, and dispute resolution proceedings as it has in Title 2 of this article.

(q) Nothing in this subtitle may be construed to affect the authority of the Division of Consumer Protection in the Office of the Attorney General to enforce violations of Titles 13 and 14 of the Commercial Law Article or any other applicable State law or regulation in connection with the activities of electricity suppliers, energy salespersons, and energy vendors.

(r) The Commission may not impose a civil penalty on an energy salesperson under subsection (k) or (l) of this section.

§7–508.

(a) An electric company may transfer any of its generation facilities or generation assets to an affiliate.

(b) The transfer of a generation facility or generation asset to an affiliate may not affect or restrict the Commission's determination of the value of a generation asset for purposes of transition costs or benefits under § 7-513(b) of this subtitle.

(c) (1) This subsection is in effect until the later of the date when:

(i) all customers of the electric company are eligible for customer choice under § 7-510 of this subtitle; and

(ii) the amount of transition costs or benefits arising from the generation to be transferred has been finally determined by the Commission under § 7-513(a) through (c) of this subtitle.

(2) The Commission may review and approve the transfer for the sole purpose of determining:

(i) that the appropriate accounting has been followed;

(ii) that the transfer does not or would not result in an undue adverse effect on the proper functioning of a competitive electricity supply market; and

(iii) the appropriate transfer price and rate making treatment.

(3) The Commission shall act on the transfer of a generation facility or generation asset under this subsection within 180 days after the electric company files its proposed transfer application and any required supporting information.

§7–509.

(a) (1) On and after the initial implementation date, the generation, supply, and sale of electricity, including all related facilities and assets, may not be regulated as an electric company service or function except to:

(i) establish the price for standard offer service under § 7–510(c) of this subtitle; and

(ii) review and approve transfers of generation assets under § 7–508 of this subtitle.

(2) This subsection does not apply to:

(i) regulation of an electricity supplier under § 7–507 of this subtitle; or

(ii) the costs of nuclear generation facilities or purchased power contracts that, as part of a settlement approved by the Commission, remain regulated or are recovered through the distribution function.

(b) (1) Subject to paragraph (2) of this subsection, this section does not apply to an investor–owned electric company until the electric company:

(i) transfers generation facilities and generation assets to an affiliate of the electric company, and the affiliate operates the facilities and assets; or

(ii) sells the generation facilities and generation assets to a nonaffiliate.

(2) (i) Notwithstanding the provisions of paragraph (1) of this subsection, this section applies to an investor–owned electric company that does not transfer its generation facilities and generation assets to an affiliate or sell its generation facilities and generation assets to a nonaffiliate if, on January 1, 1999, the retail peak load of the investor–owned electric company in the State was less than 1,000 megawatts.

(ii) An investor–owned electric company to which this section applies through subparagraph (i) of this paragraph shall, by January 1, 2001:

1. transfer its generation facilities and generation assets to an affiliate of the investor–owned electric company that operates the facilities and assets; or

2. sell the generation facilities and generation assets to a nonaffiliate.

(c) The exceptions in subsection (a)(1) of this section as to any electric company shall remain in effect until the latest of:

(1) the date when all customers of that electric company are eligible for customer choice under § 7–510 of this subtitle;

(2) the date when the amount of transition costs or benefits arising from the generation that is deregulated has been finally determined by the Commission under § 7–513(a) through (c) of this subtitle; or

(3) the date on which the obligation of the electric company to provide standard offer service under § 7–510(c)(3)(ii) of this subtitle terminates.

§7–510.

(a) (1) Subject to subsection (b) of this section, the phased implementation of customer choice shall be implemented as follows:

(i) on July 1, 2000, one–third of the residential class in the State of each electric company shall have the opportunity for customer choice;

(ii) on January 1, 2001, the entire industrial class and the entire commercial class in the State of each electric company shall have the opportunity for customer choice;

(iii) on July 1, 2001, two–thirds of the residential class in the State of each electric company shall have the opportunity for customer choice;

(iv) on July 1, 2002, all customers of each electric company shall have the opportunity for customer choice; and

(v) by July 1, 2003, under a separate schedule adopted by the Commission, all customers of each electric cooperative shall have the opportunity for customer choice.

(2) (i) In accordance with this paragraph, the Commission may adopt a separate schedule for municipal electric utilities for the implementation of customer choice.

(ii) A municipal electric utility may not be required to make its service territory available for customer choice unless it elects to do so.

(iii) If a municipal electric utility elects to allow customer choice, the municipal electric utility shall file a proposed plan and schedule with the Commission.

(iv) The Commission may approve each municipal electric utility plan and schedule after considering the features that distinguish the municipal electric utility from other electric companies.

(v) Nothing in this subtitle may be construed to require the functional, operational, structural, or legal separation of the regulated and nonregulated operations of the municipal electric utility.

(3) If a municipal electric utility serves customers outside its distribution territory, electricity suppliers licensed under § 7–507 of this subtitle may serve the customers in the distribution territory of the municipal electric utility.

(b) For good cause shown and if the Commission finds the action to be in the public interest, the Commission may:

(1) accelerate or delay the initial implementation date of July 1, 2000, by up to 3 months; or

(2) accelerate any of the other implementation dates and phase–in percentages in subsection (a) of this section.

(c) (1) Beginning on the initial implementation date, an electric company's obligation to provide electricity supply and electricity supply service is stated by this subsection.

(2) (i) Electricity supply purchased from a customer's electric company is known as standard offer service.

(ii) A customer is considered to have chosen the standard offer service if the customer:

1. is not allowed to choose an electricity supplier under the phase in of customer choice in subsection (a) of this section;

2. contracts for electricity with an electricity supplier and it is not delivered;

3. cannot arrange for electricity from an electricity supplier;

4. does not choose an electricity supplier;

5. chooses the standard offer service; or

6. has been denied service or referred to the standard offer service by an electricity supplier in accordance with § 7–507(e)(6) of this subtitle.

(3) (i) An electric company has the obligation to provide standard offer service to residential and small commercial customers at a market price that permits recovery of the verifiable, prudently incurred costs to procure or produce the electricity plus a reasonable return.

(ii) On or before December 31, 2008, and every 5 years thereafter, the Commission shall report to the Governor and, in accordance with § 2–1257 of the State Government Article, to the General Assembly on the status of the standard offer service and the development of competition.

(4) (i) 1. On or before July 1, 2001, the Commission shall adopt regulations or issue orders to establish procedures for the competitive selection of wholesale electricity suppliers, including an affiliate of an electric company, to provide electricity for standard offer service to customers of electric companies under paragraph (2) of this subsection, except for customers of electric cooperatives and municipal electric utilities.

2. Unless delayed by the Commission, the competitive selection shall take effect no later than July 1, 2003.

(ii) 1. Under the obligation to provide standard offer service in accordance with this subsection, the Commission, by regulation or order, and in a manner that is designed to obtain the best price for residential and small commercial customers in light of market conditions at the time of procurement and the need to protect these customers from excessive price increases:

A. shall require each investor–owned electric company to obtain its electricity supply for residential and small commercial customers participating in standard offer service through a competitive process in accordance with this paragraph; and

B. may require or allow an investor–owned electric company to procure electricity for these customers directly from an electricity supplier through one or more bilateral contracts outside the competitive process.

2. A. As the Commission directs, the competitive process shall include a series of competitive wholesale bids in which the investor–owned electric company solicits bids to supply anticipated standard offer service load for residential and small commercial customers as part of a portfolio of blended wholesale supply contracts of short, medium, or long terms, and other appropriate electricity products and strategies, as needed to meet demand in a cost–effective manner.

B. The competitive process may include different bidding structures and mechanisms for base load, peak load, and very short–term procurement.

C. By regulation or order, as a part of the competitive process, the Commission shall require or allow the procurement of cost–effective energy efficiency and conservation measures and services with projected and verifiable energy savings to offset anticipated demand to be served by standard offer service, and the imposition of other cost–effective demand–side management programs.

3. A. In order to prevent an excessive amount of load being exposed to upward price risks and volatility, the Commission may stagger the dates for the competitive wholesale auctions.

B. By regulation or order, the Commission may allow a date on which a competitive wholesale auction takes place to be altered based on current market conditions.

4. By regulation or order, the Commission may allow an investor–owned electric company to refuse to accept some or all of the bids made in a competitive wholesale auction in accordance with standards adopted by the Commission.

5. The investor–owned electric company shall publicly disclose the names of all bidders and the names and load allocation of all successful bidders 90 days after all contracts for supply are executed.

(5) An electric company may procure the electricity needed to meet its standard offer service electricity supply obligation from any electricity supplier, including an affiliate of the electric company.

(6) In order to meet long–term, anticipated demand in the State for standard offer service and other electricity supply, the Commission may require or allow an investor–owned electric company to construct, acquire, or lease, and operate, its own generating facilities, and transmission facilities necessary to interconnect the generating facilities with the electric grid, subject to appropriate cost recovery.

(7) (i) To determine whether an appropriate phased implementation of electricity rates that is necessary to protect residential customers from the impact of sudden and significant increases in electricity rates, the Commission in the case of an increase of 20% or more over the previous year's total electricity rates, shall conduct evidentiary proceedings, including public hearings.

(ii) 1. A deferral of costs as part of a phased implementation of electricity rates by an investor–owned electric company shall be treated as a regulatory asset to be recovered in accordance with a rate stabilization plan under Part III of this subtitle or any other plan for phased implementation approved by the Commission.

2. A deferral of costs under this paragraph must be just, reasonable, and in the public interest.

(iii) The Commission shall approve the recovery of deferred costs under subparagraph (ii) of this paragraph as:

1. long–term recovery in accordance with a rate stabilization plan under Part III of this subtitle; or

2. short–term recovery through a rate proceeding mechanism approved by the Commission.

(iv) The Commission may approve a phasing in of increased costs by:

1. placing a cap on rates and allowing recovery over time; or

2. allowing rates to increase and providing for a rebate to customers of any excess costs paid.

(8) (i) An electric cooperative that as of July 1, 2006, supplied its standard offer service load through a portfolio of blended wholesale supply contracts of short, medium, and long terms, and other appropriate electricity products and strategies, as needed to meet demand in a cost–effective manner, may choose to continue to use a blended portfolio:

1. as approved and modified by the electric cooperative's board of directors; and

2. with appropriate review for prudent cost recovery as determined by the Commission.

(ii) The Commission may not set or enforce a termination date for the procurement of supply through a managed portfolio previously approved by the Commission.

(9) (i) The Commission, on request by an electric cooperative or on its own initiative, shall initiate a proceeding to investigate options for a rate stabilization plan to assist residential electric customers to gradually adjust to market rates over an extended period of time.

(ii) If an electric cooperative determines that total electric rates for residential customers are anticipated to increase by more than 20% in a 12–month period resulting from an increase in the cost of generation, the electric cooperative shall survey its membership to determine whether to make a request to the Commission to initiate a proceeding under subsection (a) of this section.

(iii) Notwithstanding subparagraphs (i) and (ii) of this paragraph, as approved by the Commission, an electric cooperative may receive a modification in distribution and transmission rates.

(10) (i) This paragraph does not apply to a member–regulated cooperative as defined in § 5–601 of the Corporations and Associations Article.

(ii) An electric cooperative may advertise, market, and promote standard offer service and related products in its service territory, including availability, price, and other terms, in compliance with appropriate consumer protections consistent with those that apply to electricity suppliers under § 7–507 of this subtitle.

(d) (1) This subsection applies to residential electricity supply other than supply offered through:

(i) standard offer service;

(ii) the Department of General Services' sale of energy under § 7–704.4 of this title; or

(iii) a community choice aggregator under § 7–510.3 of this subtitle.

(2) A residential electricity supplier:

(i) may offer electricity, other than green power, only at a price that does not exceed the trailing 12–month average of the electric company's standard offer service rate in the electric company's service territory as of the date of agreement with the customer;

(ii) may offer residential electricity supply only for a term not to exceed 12 months at a time;

(iii) may, for electricity supply other than green power, automatically renew the term only if the electricity supplier provides notice to the customer 90 days before and 30 days before renewal;

(iv) may offer green power that meets the requirements of § 7–707 of this title, but may not automatically renew the term with the customer;

(v) subject to paragraph (3) of this subsection, may not offer a variable rate other than a rate that adjusts for seasonal variation not more than twice in a single year; and

(vi) may not pay a commission or other incentive–based compensation to an energy salesperson for enrolling customers.

(3) Paragraph (2)(v) of this subsection does not prohibit the offer and use of time–of–use rates that establish different rates for periods within a single day.

(4) A residential electricity supplier may not sell to an electric company, and an electric company may not purchase from the electricity supplier, accounts receivable.

(e) (1) This subsection does not apply to:

(i) the Department of General Services' sale of energy under § 7–704.4 of this title; or

(ii) a community choice aggregator under § 7–510.3 of this subtitle.

(2) An electric company and a residential electricity supplier shall establish a mechanism for a customer whose account number or customer choice identification number has been compromised to receive a replacement account number or customer choice identification number on request, subject to verification in a manner approved by the Commission.

(f) (1) This subsection does not apply to:

(i) the Department of General Services' sale of energy under § 7–704.4 of this title; or

(ii) a community choice aggregator under § 7–510.3 of this subtitle.

(2) Except as provided in paragraph (3) of this subsection, as approved by the Commission by regulation or order, each electric company and each residential electricity supplier shall allow a customer to indicate the customer's intention to remain on standard offer service indefinitely and not to receive directed marketing contacts from electricity suppliers through the implementation of a "do not transfer" list onto which the customer may request to be placed.

(3) A residential electricity supplier may contact a customer on a "do not transfer" list until the electricity supply agreement entered into between the electricity supplier and the customer expires.

(g) (1) In this subsection, "billing entity" means an electric company, a licensed electricity supplier, or any other entity that is responsible for issuing an electric bill to a residential customer.

(2) On or before the 15th day of each month, each billing entity shall submit a report to the Commission on customer choice in its service territory for the preceding month, including:

(i) the total kilowatt–hours distributed to customers purchasing electricity from a third–party electricity supplier;

(ii) the total supply cost charged to customers purchasing electricity from a third–party electricity supplier;

(iii) the total cost that customers specified in item (ii) of this paragraph would have paid under standard offer service;

(iv) the net third–party total cost compared to the net standard offer service cost;

(v) the total third–party average rate;

(vi) the standard offer service average rate;

(vii) the difference between the total third–party average rate and the standard offer service average rate;

(viii) the third–party average residential rates broken out by supplier and the variance between each of these rates and the standard offer service average rate;

(ix) the third–party average general service nondemand rates broken out by supplier and the variance between each of these third–party rates and the standard offer service average rate;

(x) the third–party average general service demand rates broken out by supplier and the variance between each of these third–party rates and the standard offer service average rate;

(xi) the third–party average large power demand rates broken out by supplier and the variance between each of these third–party rates and the standard offer service average rate; and

(xii) other pertinent information the Commission considers appropriate.

(h) The Commission shall, by regulation or order, adopt procedures to implement this section.

(i) Except as provided in § 7–510.3 of this subtitle, a county or municipal corporation may not act as an aggregator unless the Commission determines there is not sufficient competition within the boundaries of the county or municipal corporation.

§7–510.1.

(a) The Commission shall educate customers about customer choice in accordance with this section.

(b) (1) The Commission shall:

(i) host and regularly update a user–friendly customer choice education section on its website that complies with standards issued under § 508 of the federal Rehabilitation Act of 1973; and

(ii) prominently display a link to that section of the Commission's website on the home page of the Commission's website.

(2) The customer choice education section of the Commission's website shall include:

(i) a clear and simple description of:

1. customer choice;

2. how customers can shop for an electricity supplier;

3. what kinds of competitive electricity supply options customers have, including:

A. renewable energy supply;

B. fixed and variable pricing; and

C. other common contract terms;

4. the current price of standard offer service in the service territory of each electric company; and

5. the continuing role of the electric company in delivering electricity to a customer that chooses an electricity supplier;

(ii) fact sheets that:

1. answer common questions about customer choice;

2. advise customers about the questions customers should ask when choosing an electricity supplier;

3. list the kinds of disclosures that electricity suppliers must make to customers;

4. describe common issues about contracts for electricity supply and available options; and

5. describe consumer rights and protections that are available and the means of making use of them;

(iii) a list of all electricity suppliers that have open offers to supply electricity in a customer's service area, searchable by service territory or jurisdiction;

(iv) a statement indicating that customers who have entered into a contract with a competitive electricity supplier for electricity supply should be aware of the ending date of the contract so that they may determine, before being placed into a renewal contract with the current electricity supplier, whether they would like to:

1. shop for an alternative electricity supplier;

2. renew with the current electricity supplier; or

3. return to the standard offer service which may be offered at a price that is less than the renewal price offered by the current electricity supplier; and

(v) a link to the customer choice shopping websites established under § 7–510.2 of this subtitle and § 7–604.1 of this title.

(3) To the extent practicable, the list of electricity suppliers required under paragraph (2)(iii) of this subsection shall include:

(i) the terms of any open offers to supply electricity, including:

1. the duration of the contract;

2. the cost of electricity per kilowatt–hour; and

3. any cancellation fees; and

(ii) a link to the website of each electricity supplier with an open offer to supply electricity.

(c) (1) To ensure the currency and accuracy of information required under subsection (b)(2)(iii) of this section, the Commission shall maintain a secure portal on its website to receive information about offers to supply electricity from electricity suppliers.

(2) Each electricity supplier that is actively seeking residential customers in a service territory in the State shall maintain at least one open offer to supply electricity to residential customers on the Commission's website at all times.

(3) At least once each month, each electricity supplier with an open offer to supply electricity shall submit detailed information about the offer to the Commission through a secure portal maintained by the Commission on the Commission's website for this purpose.

(d) The Commission shall work with media outlets in the State to develop and air public service announcements publicizing customer choice and directing customers to the Commission's website for additional information.

(e) The Commission shall recover the cost of complying with this section in accordance with § 2–110 of this article.

§7–510.2.

(a) The Commission shall establish a customer choice shopping website that allows a customer to sort electricity suppliers that have open offers to supply electricity to residential customers in the customer's service area.

(b) The website shall include:

(1) a list of all electricity suppliers that have open offers to supply electricity to residential customers in a customer's service area, sortable by:

(i) cost of service;

(ii) cost of electricity per kilowatt–hour;

(iii) rate structure;

(iv) duration of the contract;

(v) cancellation fee; and

(vi) any other aspect of service that the Commission considers necessary;

(2) a way to compare electricity suppliers based on the sortable items specified under item (1) of this subsection;

(3) a link to the website of each electricity supplier with an open offer to supply electricity to residential customers;

(4) a link to the customer education webpage established under § 7–510.1 of this subtitle;

(5) a link to a complaint process that provides access for the customer to protect the customer's rights and make use of consumer protections through the Commission; and

(6) fact sheets on the process for comparing offers from electricity suppliers on the website, including relevant contract terms, requirements, limitations, and fees.

(c) The Commission shall use the information received from an electricity supplier under § 7–510.1 of this subtitle to maintain the information on the website.

(d) The Commission shall recover the cost of complying with this section in accordance with § 2–110 of this article.

§7–510.3.

(a) In this section, "small commercial electric customer" means a commercial electric customer that has a peak electric load of not more than 25 kilowatts and includes master–metered multiple occupancy residences that have a peak electric load of not more than 25 kilowatts.

(b) This section applies only in Montgomery County.

(c) (1) There is a Community Choice Aggregation Pilot Program.

(2) Beginning December 31, 2023, a county may form a community choice aggregator under this section.

(d) (1) At least 60 days before initiating the process to form a community choice aggregator, a county shall:

(i) develop an aggregation plan;

(ii) give written notice of the aggregation plan to each residential and small commercial electric customer in the county;

(iii) publish a fair summary of the aggregation plan in at least one newspaper of general circulation in the county;

(iv) if the county maintains a website, publish the full text of the aggregation plan on the website; and

(v) give, for the Commission's approval, written notice of its intention to initiate a process to form a community choice aggregator.

(2) The aggregation plan shall:

(i) detail the processes related to participating in the aggregation activities of a community choice aggregator;

(ii) contain information on the operations, funding, and organizational structure of the community choice aggregator;

(iii) provide details on:

1. the rate setting and costs to participants, including an analysis of historical and forecasted trends in electricity prices and a purchasing plan designed to save ratepayers money;

2. methods that the community choice aggregator must use for entering into and terminating agreements with other entities;

3. the rights and responsibilities of participating electric customers; and

4. the termination of the aggregation program, if any; and

(iv) provide for universal electricity access, reliability, and equitable treatment of all residential and small commercial electric customers in the county.

(e) (1) At least 60 days after developing an aggregation plan and giving the notice required under subsection (d) of this section, a county may initiate the process of forming a community choice aggregator by filing with the Commission:

(i) a notice of intent to form a community choice aggregator;

(ii) a copy of the aggregation plan developed in accordance with subsection (d) of this section;

(iii) a draft local law forming a community choice aggregator; and

(iv) proposed terms of service, rates, and categories of charges, fees, or any other costs to customers unrelated to the actual cost of the electricity supply.

(2) The notice of intent shall include the name of the county in the community choice aggregator.

(3) A county is a community choice aggregator after:

(i) submitting the notice of intent and aggregation plan required under this subsection;

(ii) the Commission has approved its aggregation plan and proposed terms filed in accordance with paragraph (1)(iv) of this subsection; and

(iii) enacting a local law that provides that the county shall act as a community choice aggregator.

(f) (1) In accordance with a schedule established by the Commission under subsection (l) of this section, if a county enacts a local law to act as a community choice aggregator, the county shall provide or cause its selected electricity supplier, if any, to provide written notice of the formation of the community choice aggregator to all residential and small commercial electric customers in the county.

(2) The notice required under this subsection shall include:

(i) the identity and Commission–issued license numbers of any selected electricity supplier;

(ii) terms and conditions of service;

(iii) new rates, charges, and fees for service under the community choice aggregator;

(iv) a comparison of the new rates and the rates under the current standard offer service;

(v) information on how to access the standard offer service available from an electric company; and

(vi) the total renewable component of the electricity to be supplied through a community choice aggregator, including the specific sources of any renewable energy compared to the requirements under current law, if any.

(3) In the notice required under this subsection, the county shall provide to the residential and small commercial electric customers in the county the opportunity to refuse to participate in the aggregation activities of the community choice aggregator:

(i) by return submission of the notice to the community choice aggregator or the electric company indicating the customer's decision to refuse to participate in the aggregation activities of the community choice aggregator; or

(ii) by contracting for service with a retail electricity supplier or by choosing standard offer service from an electric company.

(4) A county that enacts a local law to act as a community choice aggregator under this section may not exclude from the ability to participate in the aggregation activities of the community choice aggregator:

(i) any residential or small commercial electric customer in the county; or

(ii) for the provision of electric service for facilities located within the jurisdiction of the community choice aggregator, any governmental entity.

(g) A residential or small commercial electric customer is deemed to have given permission to the county to act on the customer's behalf as a community choice aggregator:

(1) when the county receives from the customer:

(i) a reply from the notice required under subsection (f) of this section by which the customer explicitly grants permission for the customer to receive service with the community choice aggregator; or

(ii) an application to receive service with the community choice aggregator;

(2) in the case of a customer receiving standard offer service, within 30 days after the notice required by subsection (f) of this section is given if:

(i) the county has not received a returned notice by that date; or

(ii) after the creation of the community choice aggregator and receipt of the notice, the customer has not contracted with a retail electricity supplier or contacted an electric company to select standard offer services; or

(3) on applying for new electric service within the territory served by the community choice aggregator, unless the customer has:

(i) contracted with a retail electricity supplier for service; or

(ii) contacted an electric company to select standard offer service.

(h) Except for a contract that automatically renews, at the end of a contract term with an electricity supplier a residential or small commercial electric customer in the jurisdiction of a community choice aggregator shall be automatically enrolled

as a participant in the aggregation activities of the community choice aggregator unless the customer:

(1) gives written notice to the county declining to participate in the aggregation activities of the community choice aggregator; or

(2) contracts for service with a retail electricity supplier or contacts an electric company to select standard offer service.

(i) This section may not be construed to prevent a residential or small commercial electric customer in the county from choosing at any time:

(1) to enter into a contract with an electricity supplier other than the community choice aggregator; or

(2) the standard offer service offered by an electric company.

(j) (1) A community choice aggregator may not assess any new fee, tax, or other charge in the aggregation charges or rates that is not related to the cost of:

(i) providing electricity supply and electricity supply service, including service from a generating station owned by the community choice aggregator;

(ii) promoting the use of renewable energy; and

(iii) providing and promoting energy efficiency programs promoted under paragraph (2) or (3) of this subsection.

(2) A community choice aggregator, in consultation with all investor–owned electric companies whose service territories include all or part of the county and the Department of Housing and Community Development, may promote energy efficiency programs that are:

(i) offered by the investor–owned electric companies; or

(ii) filed by the investor–owned electric companies with the Commission for its approval in accordance with Subtitle 2, Part II of this title.

(3) In addition to the authority granted under paragraph (2) of this subsection, a community choice aggregator may provide and promote energy efficiency programs that are supplemental to any programs that are promoted under paragraph (2) of this subsection.

(k) (1) Except for the purposes of meeting the requirements of the renewable energy portfolio standard under Subtitle 7 of this title, a community choice aggregator may not be considered to be an electricity supplier under § 7–507(a) of this subtitle.

(2) (i) A community choice aggregator may own an electric generating facility or an electric storage facility in accordance with this article if the facility is designed to provide energy primarily for use by the participants of the community choice aggregator.

(ii) When a community choice aggregator builds or acquires an electric generating facility or electric storage facility, the community choice aggregator shall submit to the Commission a plan for the use or disposition of the facility if the community choice aggregator is dissolved.

(3) (i) A community choice aggregator may contract for service from an electric generating facility in accordance with this article if the amount of contracted electricity supply from the facility is not greater than the amount estimated to be necessary to meet the electrical demand of the participants of the community choice aggregator.

(ii) When a community choice aggregator contracts for service from an electric generating facility for a period exceeding 2 years, the community choice aggregator shall submit to the Commission a plan for the transfer of the contract to another electricity supplier if:

1. the community choice aggregator is dissolved; or

2. the pilot program ends without an extension or the creation of a permanent community choice aggregator.

(4) Any contract relating to the provision of electric service by a community choice aggregator, including any contract for the supply of electricity or the procurement or financing of electric generation services shall allow for or anticipate the potential adoption of an alternative resource adequacy mechanism that could apply in the State.

(l) (1) Based on a determination of the mitigation of volumetric risk, the Commission may establish by order or regulation a schedule that may not exceed a period of 2 years, by which a community choice aggregator may transfer load from standard offer service to retail or wholesale contracts under an aggregation plan.

(2) The Commission shall consider the impacts to the price and stability of the procurement of standard offer service when considering a schedule under paragraph (1) of this subsection.

(m) (1) A county that is forming a community choice aggregator is deemed to have obtained electric customer authorization to retrieve preenrollment usage data for residential and small commercial electric customers in the county.

(2) In accordance with procedures established by the Commission, an electric company shall provide to a community choice aggregator any relevant data for customers in the jurisdiction of the community choice aggregator, including:

(i) preenrollment usage data; and

(ii) any other appropriate billing and electrical load data.

(3) An electric company shall provide to a county that is forming a community choice aggregator data under this subsection as follows:

(i) only aggregate data when the county initiates the process of forming a community choice aggregator; and

(ii) any customer–specific data after the aggregation plan is approved by the Commission.

(n) The Commission shall review applicable fees, request formats, and the format of data provided to facilitate the intent of this section.

(o) The Commission shall establish procedures for an electric customer that is receiving electricity supply through a community choice aggregator to receive any bill assistance credit or arrearage assistance to which the customer may be entitled under § 7–512.1 of this subtitle or any other federal or State bill and arrearage assistance administered by the Office of Home Energy Programs.

(p) The Commission may allocate the portion of delinquent accounts receivable that is attributable to electricity supply between the electric customers participating in the aggregation activities of a community choice aggregator and the electric customers throughout the electric company's service territory if the Commission determines that:

(1) the amount of delinquent accounts receivable attributable to electric customers receiving standard offer service is projected to increase to an extent that will materially adversely impact the cost of providing standard offer service; and

(2) the projected increase in the amount of delinquent accounts receivable attributable to electric customers receiving standard offer service is directly or indirectly caused by the migration of a substantial number of electric customers from standard offer service to participation in the aggregation activities of a community choice aggregator.

(q) Bills sent to electric customers that participate in the aggregation activities of a community choice aggregator shall identify the community choice aggregator as the electricity supplier.

(r) (1) In this subsection, "Workgroup" means the Community Choice Energy Workgroup established in accordance with this subsection.

(2) On or before September 1, 2021, the Commission shall establish a Community Choice Energy Workgroup.

(3) The Workgroup shall consist of at least the following members:

(i) one representative of the Montgomery County government;

(ii) one representative of the Office of People's Counsel;

(iii) one representative of each investor–owned electric company whose service territory includes all or part of a county that participates in the pilot program;

(iv) one representative of any competitive electricity supplier;

(v) one representative of residential and small commercial electric customers;

(vi) one representative of low–income communities;

(vii) one representative of minority residential communities;

(viii) one representative with expertise in implementing community choice aggregation programs; and

(ix) any other individuals identified by the Commission.

(4) The Commission shall provide staff for the Workgroup.

(5) Nothing in this subsection may be construed to limit the authority of the Commission to take any action, including the adoption of regulations, without a recommendation from the Workgroup.

(6) (i) During any year that a community choice aggregator operates in the State, the Workgroup shall submit an annual report on the status of the community choice aggregator to the Commission.

(ii) The Workgroup shall include in the annual report information regarding:

1. rates, charges, and fees for service under each community choice aggregator;

2. renewable energy;

3. customer satisfaction;

4. enrollment; and

5. any other information or metric determined by the Workgroup or requested by the Commission.

(s) (1) The Commission shall by regulation establish standards and procedures to protect the consumer rights of residential customers within the territory of a community choice aggregator that receive electricity supply through the community choice aggregator.

(2) The regulations shall prohibit discrimination against a customer on the basis of the location of the customer.

(3) The Commission shall seek the advice and recommendation of the Community Choice Energy Workgroup established under subsection (r) of this section when carrying out the provisions of this section and adopting regulations.

(t) (1) The pilot program shall:

(i) begin on the earlier of:

1. the date that a county gives notice to the Commission of its intention to initiate a process to form a community choice aggregator, in accordance with subsection (d)(1)(v) of this section; or

2. April 1, 2024; and

(ii) end 7 years after the beginning date, but not sooner than April 1, 2031.

(2) On or before April 1 of the sixth year after the beginning of the pilot program, the Commission shall, in accordance with § 2–1257 of the State Government Article, report to the General Assembly on the status and effectiveness of the pilot program.

(u) (1) At the conclusion of the pilot program described in this section, the Commission shall study:

(i) the overall costs and benefits of the pilot program;

(ii) whether there were any incremental costs borne by standard offer service customers resulting from the migration of customers between the community choice aggregator and standard offer service; and

(iii) what mechanisms could be implemented to hold standard offer service customers harmless from any incremental costs borne by standard offer service customers identified under item (ii) of this paragraph.

(2) The Commission shall seek the advice and recommendation of the Community Choice Energy Workgroup in the study required under this subsection.

(3) On or before December 31, 2031, the Commission shall report the findings of the study to the Governor and the General Assembly, in accordance with § 2–1257 of the State Government Article.

(v) On or before December 31, 2023, the Commission shall adopt regulations to implement this section, including regulations for:

(1) consumer protection;

(2) procedures to consider and review the analysis of historical and forecasted trends in electricity prices and a purchasing plan designed to save ratepayers money, submitted by county;

(3) a tariff structure for community choice aggregation noncommodity fees and charges;

(4) a protocol for data exchange between community choice aggregators, retail suppliers, and electric companies, including prohibitions on the

community choice aggregator from sharing, disclosing, or otherwise making accessible to a third party a customer's personal information;

(5) procedures by which a community choice aggregator may transfer load from standard offer service to retail or wholesale contracts under an aggregation plan;

(6) the method by which the cost of delinquent accounts of a community choice aggregator may be recovered from customers;

(7) procedures for enrolling a customer for service with a community choice aggregator on expiration of the customer's retail supply contract;

(8) procedures to protect a customer's privacy and confidential data collected or held by a community choice aggregator;

(9) procedures to mitigate any risk to standard offer service customers caused by the potential for customers to migrate from a community choice aggregator to standard offer service;

(10) procedures by which a community choice aggregator may be dissolved, including procedures for the transfer of customers to standard offer service and the resale of contracted electricity supply;

(11) the approval of a tariff structure for community choice aggregrator interactions with electric companies, including:

(i) billing and payment collection;

(ii) dispute resolution;

(iii) financial settlement;

(iv) losses;

(v) metering services;

(vi) PJM Interconnection requirements;

(vii) scheduling; and

(viii) utility charges; and

(12) procedures to require that:

(i) a community choice aggregator that transfers all customers back to standard offer service is considered to be dissolved; and

(ii) if a community choice aggregator is considered to be dissolved, it may not be reformed except through the process of forming a new community choice aggregator in accordance with this section.

(w) The Montgomery County government shall:

(1) be solely responsible for the costs associated with any stranded costs for:

(i) contracts entered into by the community choice aggregator for electric supply; or

(ii) generation owned by a community choice aggregator; and

(2) pay for any costs the Montgomery County government is responsible for under item (1) of this subsection.

§7–511.

(a) Except for electric cooperatives and municipal electric utilities:

(1) competitive billing shall begin on July 1, 2000;

(2) competitive metering for large customers shall begin on January 1, 2002; and

(3) competitive metering for all other customers shall begin on April 1, 2002, or earlier if requested by the electric company.

(b) The Commission shall adopt regulations or issue orders to implement this section.

(c) (1) A person other than an electric company or a municipal electric utility may not engage in the business of competitive billing services in a local jurisdiction that assesses a local energy tax, unless the person holds a license issued by that jurisdiction.

(2) An application for a local competitive billing services license shall be made in accordance with the requirements of the local jurisdiction.

(3) (i) A local jurisdiction may require an applicant or licensee to:

1. hold a license issued by the Commission, as provided under § 7-507 of this subtitle;

2. post a bond or other similar instrument in an amount equal to 15% of the bond required under § 7-507 of this subtitle; and

3. have a resident agent in the State.

(ii) A local jurisdiction may not require an applicant or licensee to pay a fee or other charge for the local license.

(d) (1) A local jurisdiction may revoke or suspend the local license if the licensee fails, within 15 days of the due date established by the local jurisdiction, to pay or remit all of the applicable local energy taxes on services.

(2) A local jurisdiction may reinstate the license after payment of all local energy taxes due.

(3) A local jurisdiction may choose not to reinstate a license that has been revoked or suspended 3 times in a 12-month period.

(4) A local jurisdiction shall report any revocation or suspension of a license to the Commission.

(e) The Commission shall adopt regulations or issue an order to establish procedures for the assumption of billing responsibilities by the electric company that distributes electricity in the relevant service territory if a local license is revoked or suspended.

§7–512.

(a) This section and § 7-513 of this subtitle apply to an entity that was regulated as an electric company on June 30, 1999, whether or not the entity or any of its businesses, services, or assets continues to be regulated under this article after that date.

(b) An electric company may recover costs under this section to the extent that the Commission finds costs to be just and reasonable.

(c) (1) An electric company shall be provided a fair opportunity to recover fully all costs that have been or will be incurred by the electric company under public purpose programs established by law or ordered by the Commission.

(2) (i) Except as provided in paragraph (3) of this subsection, the costs subject to this subsection shall be funded by a surcharge or other cost recovery mechanism collected on a statewide basis that:

1. fully recovers from customers the costs of the plans and programs; and

2. subject to subparagraph (ii) of this paragraph, with respect to any of these costs not included in rates on January 1, 2000, is not subject to any otherwise applicable cap.

(ii) The recovery by an electric company of costs for a universal service program is subject to any applicable cap regardless of when the costs are included in rates.

(3) During the fiscal year ending June 30, 2000, an electric company may not, under paragraph (2) of this subsection, recover costs of a consumer education program established by law, regulation, or order.

§7–512.1.

(a) (1) The Commission shall establish an electric universal service program to assist electric customers with annual incomes at or below 200% of the federal poverty level.

(2) The components of the electric universal service program shall include:

(i) bill assistance;

(ii) low–income residential weatherization; and

(iii) the retirement of arrearages for electric customers who have not received assistance in retiring arrearages under the universal service program within the preceding 5 fiscal years.

(3) The Department of Housing and Community Development is responsible for administering the low–income residential weatherization component of the electric universal service program.

(4) (i) The Department of Human Services, through the Office of Home Energy Programs, is responsible for administering the bill assistance and the arrearage retirement components of the electric universal service program.

(ii) The Department of Human Services may:

1. establish minimum and maximum benefits available to an electric customer under the bill assistance and arrearage retirement components; and

2. coordinate benefits under the electric universal service program with benefits under the Maryland Energy Assistance Program and other available energy assistance programs.

(5) The Department of Human Services may, with input from a panel or roundtable of interested parties, contract to assist in administering the bill assistance and the arrearage retirement components of the electric universal service program.

(6) The Commission has oversight responsibility for the bill assistance and the arrearage retirement components of the electric universal service program and any other funds expended under this section.

(7) In a specific case, the electric universal service program may waive the income eligibility limitation under paragraph (1) of this subsection in order to provide assistance to an electric customer who would qualify for a similar waiver under the Maryland Energy Assistance Program established under Title 5, Subtitle 5A of the Human Services Article.

(8) (i) If an applicant for bill assistance or arrearage retirement is to be denied due to deficient documentation, the Department of Human Services shall:

1. promptly provide notice of the deficiency to the applicant; and

2. afford the applicant ample opportunity of not less than 3 months to cure the deficiency.

(ii) An electric company may not begin the process to terminate service to an applicant while the applicant is curing a deficiency under this paragraph.

(9) Notwithstanding paragraph (2)(iii) of this subsection, any assistance received for arrearage retirement by a customer in calendar years 2020 and 2021 may not be counted toward the limitation on the number of times the customer may receive assistance for arrearage retirement.

(b) (1) All customers shall contribute to the funding of the electric universal service program through a charge collected by each electric company.

(2) The Commission shall determine a fair and equitable allocation for collecting the charges among all customer classes pursuant to subsection (e) of this section.

(3) Except as provided in paragraph (4) of this subsection, in accordance with subsection (f)(6) of this section, any unexpended bill assistance and arrearage retirement funds returned to customers under subsection (f) of this section shall be returned to each customer class as a credit in the same proportion that the customer class contributed charges to the fund.

(4) The Department of Human Services shall expend any unexpended bill assistance and arrearage funds that were collected in fiscal years 2010 through 2017, in excess of the total amount authorized under subsection (e) of this section, for one or more of the following purposes:

(i) bill assistance and the retirement of arrearages for customers who are eligible to receive assistance at the time services are provided;

(ii) targeted and enhanced low–income residential weatherization designed to remediate households that are considered ineligible to participate in other State energy efficiency programs due to significant health and safety hazards;

(iii) an arrearage management program for low–income customers in arrears, including providing credits or matching payments for customers who make timely payments on current bills; or

(iv) an arrearage prevention program for low–income customers.

(5) An electric company shall recover electric universal service program costs in accordance with § 7–512 of this subtitle.

(6) As determined by the Office of Home Energy Programs, bill assistance payments to an electric company may be on a monthly basis for each customer.

(7) The Commission shall determine the allocation of the electric universal service charge among the generation, transmission, and distribution rate components of all classes.

(8) The Commission may not assess the electric universal service surcharge on a per kilowatt–hour basis.

(c) (1) On or before January 1 of each year, the Commission shall report, subject to § 2–1257 of the State Government Article, to the General Assembly on the electric universal service program, including:

(i) subject to subsection (e) of this section, a recommendation on the total amount of funds for the program for the following fiscal year based on:

1. the level of participation in and the amounts expended on bill assistance and arrearage retirement during the preceding fiscal year;

2. how bill assistance and arrearage retirement payments were calculated during the preceding fiscal year;

3. the projected needs for the bill assistance and the arrearage retirement components for the next fiscal year; and

4. the amount of any bill assistance or arrearage retirement surplus carried over in the electric universal service program fund under subsection (f)(6)(i) of this section;

(ii) for bill assistance, the total amount of need, as determined by the Commission, for electric customers with annual incomes at or below 175% of the federal poverty level and the basis for this determination;

(iii) the amount of funds needed, as determined by the Commission, to retire arrearages for electric customers who have not received assistance in retiring arrearages under the electric universal service program within the preceding 7 fiscal years, and the basis for this determination;

(iv) the amount of funds needed, as determined by the Commission, for bill assistance and arrearage retirement, respectively, for customers for whom income limitations may be waived under subsection (a)(7) of this section, and the basis for each determination;

(v) the impact on customers' rates, including the allocation among customer classes, from collecting the total amount recommended by the Commission under item (i) of this paragraph; and

(vi) the impact of using other federal poverty level benchmarks on costs and the effectiveness of the electric universal service program.

(2) (i) To assist the Commission in preparing its recommendations under paragraph (1) of this subsection, the Office of Home Energy Programs shall report to the Commission each year on:

1. the number of customers and the amount of distributions made to fuel customers under the Maryland Energy Assistance Program established under Title 5, Subtitle 5A of the Human Services Article, identified by funding source and fuel source;

2. the cost of outreach and education materials provided by the Office of Home Energy Programs for the electric universal service program; and

3. the amount of money that the Department of Human Services receives, and is projected to receive, for low–income energy assistance from:

A. the Maryland Strategic Energy Investment Fund under § 9–20B–05 of the State Government Article;

B. with respect to electric customers only, the Maryland Energy Assistance Program; and

C. any other federal, State, local, or private source.

(ii) The Office of Home Energy Programs may satisfy the reporting requirement of subparagraph (i)1 of this paragraph by providing the Commission with a copy of material that contains the required information and that the Office of Home Energy Programs submits to the federal government.

(iii) The Commission shall include the information provided by the Office of Home Energy Programs under subparagraph (i) of this paragraph in its report to the General Assembly under paragraph (1) of this subsection.

(3) Subject to subsection (d)(2) of this section, the Commission shall include the information provided by the Department of Housing and Community Development under subsection (d)(1) of this section in its report to the General Assembly under paragraph (1) of this subsection.

(4) The electric universal service program shall be subject to audit by the Office of Legislative Audits in accordance with §§ 2–1220 through 2–1227 of the State Government Article.

(d) (1) On or before January 1 of each year, the Department of Housing and Community Development shall report, in accordance with § 2–1257 of the State Government Article, to the General Assembly on the low–income residential weatherization component of the electric universal service program, including:

(i) the amount of funds expended during the preceding fiscal year;

(ii) the level of participation during the preceding fiscal year, including the number of households served in each area of the State; and

(iii) the types of projects, including the average cost per unit, provided to households during the preceding fiscal year.

(2) The Department of Housing and Community Development may satisfy the reporting requirement under paragraph (1) of this subsection by requesting the Commission to include the information in the Commission's report required under subsection (c) of this section and providing the information to the Commission by the date specified by the Commission.

(e) The total amount of funds to be collected for the electric universal service program each year shall be $37 million, allocated in the following manner:

(1) $27.4 million shall be collected from the industrial and commercial classes; and

(2) $9.6 million shall be collected from the residential class.

(f) (1) In this subsection, "fund" means the electric universal service program fund.

(2) There is an electric universal service program fund.

(3) (i) 1. The Comptroller shall collect the revenue collected by electric companies under subsection (b) of this section and place the revenue into the fund.

2. The General Assembly may appropriate funds supplemental to the funds collected under subsubparagraph 1 of this subparagraph.

(ii) The fund is a continuing, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(iii) The purpose of the fund is to assist electric customers as provided in subsection (a)(1) of this section.

(4) The Department of Human Services, with oversight by the Commission, shall disburse the bill assistance and arrearage retirement funds in accordance with the provisions of this section.

(5) The Comptroller annually shall disburse up to $1,000,000 of low–income residential weatherization funds to the Department of Housing and Community Development, as provided in the State budget.

(6) (i) At the end of a given fiscal year, any unexpended bill assistance and arrearage retirement funds that were collected for that fiscal year shall be retained in the fund and shall be made available for disbursement through the first 6 months of the next fiscal year to customers who:

1. qualify for assistance from the fund during the given fiscal year;

2. apply for assistance from the fund before the end of the given fiscal year; and

3. remain eligible for assistance at the time services are provided.

(ii) If the Commission determines that an extension is needed, the Commission may extend up to an additional 6 months the period in which unexpended bill assistance and arrearage retirement funds may be made available for disbursement under subparagraph (i) of this paragraph.

(iii) 1. Any bill assistance and arrearage retirement funds collected for a given fiscal year that are retained under subparagraph (i) of this paragraph and that remain unexpended at the end of the period allowed under subparagraphs (i) and (ii) of this paragraph shall be returned to each customer class in the proportion that the customer class contributed charges to the fund for the given fiscal year in the form of a credit toward the charge assessed in the following fiscal year.

2. If the Commission determines that it is impractical to establish a rate credit for the amount to be returned for a given fiscal year to customers under subsubparagraph 1 of this subparagraph, the Commission:

A. may defer the return for not more than 2 additional fiscal years; and

B. shall combine the returned amount for that fiscal year with amounts to be returned for the following fiscal years when calculating the rate credit for the final fiscal year of the period.

(g) (1) If a party to a merger or acquisition of an electric company or an affiliate of an electric company is required to distribute a credit to the customers in the electric company's service territory under an agreement with the Commission in connection with the merger or acquisition, the Commission shall consider the adequacy of the current funding of the electric universal service program in providing assistance to customers who qualify under this section.

(2) Any funds deposited into the electric universal service program fund as a result of an agreement with the Commission in connection with a merger or acquisition of an electric company or an affiliate of an electric company are in addition to, and may not substitute for, funds collected under subsection (e) of this section.

(h) (1) An arrearage prevention program under subsection (b)(4)(iv) of this section is intended to prevent or reduce arrearages for low–income customers who have participated in a low–income residential weatherization program.

(2) (i) The program is intended as a one–time grant of money to establish ongoing arrearage prevention activities in the State.

(ii) The Department of Human Services, in consultation with the Commission, will select for the program up to two public or private entities as program recipients to administer the program.

(iii) At least one program recipient must primarily serve customers in a major urban area of the State.

(3) A program recipient must demonstrate significant efforts to:

(i) secure additional private investment in rooftop solar installation, including the use of program money for credit enhancement, direct project support, or support for program recipients and customers; and

(ii) provide employment in solar installation to unemployed and underemployed individuals, with preference for those who reside in the local jurisdiction where the installations will occur.

(4) The program may include the installation of rooftop solar electricity generation equipment after energy efficiency measures at the residential property have been completed.

§7–513.

(a) (1) In accordance with this subsection, an electric company shall be provided a fair opportunity to recover all of its prudently incurred and verifiable net transition costs, subject to full mitigation, following the Commission's determination under subsection (b) of this section.

(2) A competitive transition charge, or other appropriate mechanism that the Commission determines, may be included for customers who access the transmission or distribution system of the electric company in whose distribution territory the customer is located. The costs authorized by the Commission to be recovered shall be allocated to customer classes in a manner that, as nearly as reasonably possible, does not exceed the cost of providing the service to those classes of customers, avoiding where reasonably possible any interclass or intraclass cross subsidy.

(3) (i) The competitive transition charge may be included on bills to customers for a period determined by the Commission.

(ii) The Commission may establish recovery periods of different lengths for each electric company and for different categories of transition costs.

(4) A competitive transition charge, or other appropriate mechanism determined by the Commission, may not apply to any on–site generated electricity to the extent of:

(i) the existing facilities' installed generating capacity as of January 1, 1999;

(ii) the generating capacity of an existing facility to be installed under a legally binding contract:

1. executed on or before January 1, 1999; or

2. executed on or before September 29, 1999, if the Commission, on a case by case review of the evidence, determines that negotiations in good faith concerning the contract were ongoing as of January 1, 1999; or

(iii) for a facility with a capacity of 500 kilowatts or less:

1. the first 80 megawatts of the aggregate statewide generating capacity of on–site generating facilities;

2. the generating capacity of the facility if the facility:

A. is installed between January 1, 2000, and December 31, 2003;

B. derives electricity from fuel cells, photovoltaics, wind machines, or microturbines; and

C. has an energy conversion efficiency greater than 40%; or

3. the generating capacity of the facility if the facility:

A. is installed after January 1, 2004;

B. derives electricity from fuel cells, photovoltaics, wind machines, or microturbines; and

C. has an energy conversion efficiency greater than 50%.

(b) The Commission shall determine the transition costs and the amounts of the transition costs that an electric company shall be provided an opportunity to recover under its restructuring plan through the competitive transition charge or other appropriate mechanism.

(c) (1) After July 1, 1999, an electric company may apply to the Commission for a qualified rate order for some or all of its transition costs.

(2) If the Commission issues a qualified rate order and the transition bonds approved by that order are successfully issued:

(i) the electric company shall impose and collect, through its customer bills, the intangible transition charges approved by the qualified rate order; and

(ii) at the same time, the electric company's competitive transition charge shall be reduced by an amount equal to that portion of the competitive transition charge related to the transition costs for which transition

bonds have been successfully issued, together with any costs of capital related to the transition costs for which recovery was provided in the competitive transition charge, as provided in the qualified rate order.

(d) (1) The Commission shall establish procedures for the annual review of the competitive transition charge for each electric company to reconcile the annual revenues received from the charge with the annual amortization of transition costs approved by the Commission under this section to take account of actual kilowatt–hour sales in the prior year compared with previously estimated kilowatt–hour sales. The Commission shall adjust the competitive transition charge based on any under recovery or over recovery with respect to the authorized amortization amount.

(2) Nothing in this subtitle may be construed as preventing the Commission from approving for an investor–owned electric company:

(i) an adjustment mechanism proposed by the investor–owned electric company in its initial restructuring proposal filed prior to January 1, 1999, that takes into account differences other than differences in kilowatt–hour sales, taking into consideration any requirements related to any transition bonds;

(ii) an adjustment that takes into account generation asset sales by an electric company or an affiliate to a nonaffiliate that are consummated on or before June 30, 2005; or

(iii) any other mechanism as part of a settlement.

(e) (1) In determining the appropriate transition costs or benefits for each electric company's generation–related assets, the Commission shall:

(i) conduct public hearings; and

(ii) consider, in addition to other appropriate evidence of value:

1. book value and fair market value;

2. auctions and sales of comparable assets;

3. appraisals;

4. the revenue the company would receive under rate–of–return regulation;

5. the revenue the company would receive in a restructured electricity supply market; and

6. computer simulations provided to the Commission.

(2) The Commission shall determine any equitable allocation of costs or benefits between shareholders and ratepayers. In determining the allocation of transition costs or benefits, the Commission shall consider the following factors:

(i) the prudence and verifiability of the original investment;

(ii) whether the investment continues to be used and useful;

(iii) whether the loss is one of which investors can be said to have reasonably borne the risk; and

(iv) whether investors have already been compensated for the risk.

(f) This section does not apply to rate stabilization costs established or qualified rate orders issued under Part III or Part IV of this subtitle.

§7–514.

(a) (1) On complaint or on its own motion, for good cause shown, the Commission may conduct an investigation of the retail electricity supply and electricity supply services markets and determine whether the function of one of these markets is being adversely affected by market power or any other anticompetitive conduct.

(2) The Commission shall monitor the retail electricity supply and electricity supply services markets to ensure that the markets are not being adversely affected by market power or any other anticompetitive conduct.

(b) If, as a result of an investigation conducted under this section, the Commission determines that market power or any other anticompetitive conduct in the relevant market under the Commission's jurisdiction is preventing the electric customers in the State from obtaining the benefits of properly functioning retail electricity supply and electricity supply services markets, the Commission may take remedial actions within its authority to address the impact of the market power or any other anticompetitive conduct activities.

(c) The Commission shall include antitrust principles in performing its analysis under this section.

(d) The Commission shall cooperate with and share information with the Antitrust Division of the Office of the Attorney General.

(e) The rights and remedies provided in this section supplement any other rights or remedies that may exist under State or federal law or common law.

§7–515.

An electricity supplier that also provides distribution service, or that has an affiliate that provides distribution service, in Pennsylvania, Delaware, West Virginia, Virginia, or the District of Columbia may not provide retail electricity supply service, directly, indirectly, or through an aggregator, marketer, or broker, in the distribution territory of an unaffiliated electric company unless there is electricity supply competition in at least a portion of the distribution service area of the electricity supplier or affiliate.

§7–516.

(a) (1) In recognition of the potential environmental impacts of restructuring the electric industry, it is the intent of the General Assembly to minimize the effects of electric restructuring on the environment.

(2) Electric companies in Maryland shall conduct a study that tracks shifts in generation and emissions as a result of restructuring the electric industry.

(3) The study shall be submitted to the Department of the Environment and the Commission one year after the initial date of implementation of customer choice.

(4) Electric companies in Maryland shall update the study twice and submit each updated study to the Department of the Environment and the Commission on or before December 31, 2003, and on or before December 31, 2005.

(b) If, after review of the study required under subsection (a) of this section, the Department of the Environment determines that the emissions levels impose a higher emission burden in Maryland, the Department of the Environment, in consultation with the Commission, shall study the appropriateness, constitutionality, and feasibility of establishing an air quality surcharge or other mechanism to protect Maryland's environment in connection with the implementation of customer choice of electricity suppliers.

§7–517.

This subtitle may be referred to as the "Electric Customer Choice and Competition Act of 1999".

§7–520.

(a) In this part the following words have the meanings indicated.

(b) "Assignee" means any individual, corporation, or other legally recognized entity to which an electric company transfers all or a portion of its interest in rate stabilization property, other than as security, including any assignee of that party.

(c) (1) "Financing party" means a holder of rate stabilization bonds.

(2) "Financing party" includes a trustee, collateral agent, and any other person acting for the benefit of the holder.

(d) "Qualified rate order" means an order of the Commission approving one or more qualified rate stabilization charges.

(e) "Qualified rate stabilization charge" means that portion of a usage-based nonbypassable rate, charge, or similar appropriate mechanism for the provision, availability, or termination of electric service, approved in connection with a rate stabilization plan in accordance with § 7-522 or § 7-548 of this subtitle, that a qualified rate order of the Commission authorizes to be imposed for the recovery of rate stabilization costs.

(f) "Rate stabilization bond" means a bond, debenture, note, certificate of participation or beneficial interest, or other evidence of indebtedness or ownership that:

(1) is authorized in a qualified rate order and issued under an executed trust indenture or other agreement of an electric company or assignee; and

(2) is secured by, evidences an ownership interest in, or is payable from rate stabilization property.

(g) (1) "Rate stabilization cost" means a cost, liability, or investment that an electric company incurs or will incur under a rate stabilization plan approved by the Commission.

(2) "Rate stabilization cost" includes:

(i) the excess of the contracted price incurred by an electric company for the purchase of energy supplies to be required for retail customers to whom it provides standard offer service, over the amounts that it is authorized to charge currently to those customers under the rate stabilization plan;

(ii) the approved costs of issuing, supporting, and servicing rate stabilization bonds; and

(iii) any approved costs for retiring and refunding existing debt and equity securities of the electric company issued to temporarily finance those rate stabilization costs.

(h) "Rate stabilization plan" means a plan approved by the Commission in accordance with this part.

(i) (1) "Rate stabilization property" means the right, title, and interest of an electric company or assignee in a qualified rate order.

(2) "Rate stabilization property" includes:

(i) all rights in, to, and under a qualified rate order, including the right to impose and collect rate stabilization charges and rights to revenues, collections, claims, payments, money, or other property and amounts arising from the imposition of rate stabilization charges under the qualified rate order; and

(ii) in the hands of an assignee, the right to require the electric company to provide electric services and to collect and remit the qualified rate stabilization charges authorized in the qualified rate order, but not the right or duty to provide electric services.

§7–521.

This part applies to an electric company that:

(1) has an obligation to provide standard offer service to residential electricity customers in accordance with § 7-510(c) of this subtitle; and

(2) is not subject to a rate cap or price freeze under § 7-505(d) of this subtitle during the period for which a rate stabilization plan is requested under this part.

§7–522.

(a) An electric company subject to this part may file a rate stabilization plan with the Commission for approval.

(b) The rate stabilization plan may include both short-term and long-term deferrals of incremental expenses of electricity supplies.

§7–523.

(a) The Commission may require that a deferral of expenses under a rate stabilization plan be either voluntary or mandatory if the Commission finds that the required type of deferral is in the public interest.

(b) The rate stabilization plan may provide that a deferral shall be secured through the issuance of rate stabilization bonds authorized by a qualified rate order under this part.

§7–524.

(a) Tariffs implementing a rate stabilization plan may provide that:

(1) residential customers shall be charged the full cost of residential standard offer service necessary to recover the electric company's costs under § 7-510(c)(3) of this subtitle; and

(2) any credits or recoveries required or authorized under this part shall be reflected as nonbypassable credits or charges on the electric distribution portion of each residential customer's bill.

(b) As part of the submission of a rate stabilization plan, an electric company may apply to the Commission for a qualified rate order for the financing and recovery of its approved rate stabilization costs in accordance with this part.

§7–525.

(a) The Commission may authorize an electric company to recover, as additional rate stabilization costs, the actual cost to the electric company of carrying the deferred expenses as regulatory assets under short-term and long-term deferral plans.

(b) The actual cost is equal to the deferred expenses as regulatory assets multiplied by the electric company's cost of debt.

(c) If the electric company secures the debt in accordance with this part, the cost of the secured debt is substituted for the electric company's cost of debt.

§7–526.

(a) An electric company may apply to the Commission for a qualified rate order for the financing and recovery of its rate stabilization costs.

(b) On application of an electric company, the Commission may adopt a qualified rate order if the Commission finds that the total amount of revenue to be collected under the qualified rate order is less than the rate stabilization costs revenue that would be recovered over the same period using the electric company's weighted average cost of capital.

(c) The rate stabilization costs to be financed and recovered under a qualified rate order may be reduced by funds contributed from other sources.

§7–527.

(a) The qualified rate order shall set forth the rate stabilization costs to be recovered and the period over which the nonbypassable qualified rate stabilization charges shall be recovered.

(b) The recovery period may not exceed 12 years.

§7–528.

(a) A qualified rate order shall become effective in accordance with its terms.

(b) After a qualified rate order becomes effective, the qualified rate order and the qualified rate stabilization charges authorized in the qualified rate order are irrevocable and are not subject to reduction, impairment, or adjustment by further action of the Commission except in accordance with §§ 7–531, 7–533, and 7–534 of this subtitle.

(c) (1) A qualified rate order is not subject to rehearing by the Commission.

(2) A qualified rate order may be reviewed by appeal only to the Circuit Court of Baltimore City by a party to the proceeding filed within 15 days after the qualified rate order is signed by the Commission.

(3) The judgment of the circuit court may be reviewed only by direct appeal to the Supreme Court of Maryland filed within 15 days after entry of judgment.

(4) All appeals shall be heard and determined by the circuit court and by the Supreme Court of Maryland as expeditiously as possible with lawful precedence over other matters.

(5) Review on appeal shall be based solely on the record before the Commission and briefs to the courts and shall be limited to whether the qualified rate order conforms to the Constitution and laws of this State and the United States and is within the authority of the Commission under this subtitle.

(6) The review process in this subsection shall be the exclusive remedy to challenge or review a qualified rate order.

§7–529.

The Commission shall make a final decision on the issuance of a qualified rate order under this part no later than 60 days after the electric company files its request for the qualified rate order.

§7–530.

A qualified rate order approved by the Commission shall include terms ensuring that the imposition and collection of qualified rate stabilization charges authorized in the order are nonbypassable.

§7–531.

The Commission shall establish specific procedures and time frames for the review and adjustment of qualified rate stabilization charges at least once each year, within 90 days before the anniversary date of the issuance of the rate stabilization bonds, to correct any overcollections or undercollections of the preceding 12 months and to ensure the expected recovery of amounts sufficient to timely provide all payments of debt service and other required amounts and charges in connection with the rate stabilization bonds.

§7–532.

(a) A qualified rate order shall terminate and expire 1 year after the date of its adoption if, during that period, no rate stabilization bonds authorized in the qualified rate order shall have been issued.

(b) This period shall be extended by any period during which judicial proceedings for review may be pending in accordance with § 7-528(c) of this subtitle.

§7–533.

(a) At the request of an electric company, the Commission may adopt a qualified rate order providing for retiring and refunding rate stabilization bonds if the Commission finds that the future qualified rate stabilization charges required to service the new rate stabilization bonds, including transaction costs, will be less than the future qualified rate stabilization charges required to service the rate stabilization bonds being refunded.

(b) On the retirement of the refunded rate stabilization bonds, the Commission shall adjust the related qualified rate stabilization charges accordingly.

§7–534.

(a) At the request of an electric company, the Commission may modify an existing qualified rate order, or issue an additional qualified rate order, providing for the issuance of:

(1) additional rate stabilization bonds for rate stabilization costs not recovered under an original qualified rate order; or

(2) new rate stabilization bonds for the combined purposes of:

(i) financing and recovering rate stabilization costs not recovered under an original qualified rate order; and

(ii) subject to § 7-533 of this subtitle, retiring and refunding existing rate stabilization bonds.

(b) Unless otherwise provided in the modified or additional qualified rate order or in the trust agreement securing the additional or new rate stabilization bonds, the additional or new rate stabilization bonds are:

(1) considered to be of the same issue as the original issue; and

(2) entitled to payment from the same funds as the original issue, without preference or priority of the rate stabilization bonds of the original issue.

§7–535.

(a) A rate stabilization bond issued under this part is not a debt, liability, or a pledge of the full faith and credit of the State or any other governmental unit.

(b) The issuance of a rate stabilization bond under this part is not directly, indirectly, or contingently a moral or other obligation of the State or any other governmental unit to levy or pledge any tax or to make an appropriation to pay the rate stabilization bond.

(c) Each rate stabilization bond issued under this part shall state on its face that:

(1) the State and any governmental unit are not obliged to pay the principal of or interest on the bond; and

(2) neither the full faith and credit nor the taxing power of the State or any other governmental unit is pledged to the payment of the principal of or interest on a rate stabilization bond.

(d) (1) The State pledges, for the benefit and protection of financing parties and the electric company, that it will not take or allow any action that would impair the value of rate stabilization property, or, except as allowed in accordance with §§ 7-531, 7-533, and 7-534 of this subtitle, reduce, alter, or impair the qualified rate stabilization charges to be imposed, collected, and remitted to financing parties, until the principal, interest, and premium, and any other charges incurred and contracts to be performed in connection with the related rate stabilization bonds have been paid and performed in full.

(2) Any party issuing rate stabilization bonds is authorized to include this pledge in any documentation relating to those bonds.

§7–536.

A qualified rate order under this part that authorizes the issuance of rate stabilization bonds may:

(1) state the rights and remedies of bondholders and any assignee; and

(2) contain provisions to protect and enforce the rights and remedies of bondholders and any assignee.

§7–537.

(a) The rights and interests of an electric company or successor under a qualified rate order, including the right to impose, collect, and receive qualified rate stabilization charges authorized in the order:

(1) become rate stabilization property when they are first transferred to an assignee or are pledged in connection with the issuance of rate stabilization bonds; but

(2) are only contract rights before that first transfer or pledge.

(b) Rate stabilization property constitutes a present property right:

(1) for purposes of contracts concerning the sale or pledge of property, even though the imposition and collection of qualified rate stabilization charges depends on further acts of the electric company or others that have not yet occurred; and

(2) for all purposes until the later of:

(i) the period provided in the qualified rate order, to the extent provided in that order; or

(ii) the payment in full of the rate stabilization bonds, including all principal, interest, premium, costs, and arrearages on the bonds.

(c) All revenues and collections resulting from qualified rate stabilization charges are proceeds only of the rate stabilization property arising from the qualified rate order.

§7–538.

A transaction that involves the transfer and ownership of rate stabilization property and the receipt of rate stabilization charges are exempt from State and local income, sales, franchise, gross receipts, and other taxes or similar charges.

§7–539.

(a) An agreement by an electric company or assignee to transfer rate stabilization property that expressly states that the transfer is a sale or other absolute transfer signifies that:

(1) the transaction is a true sale and is not a secured transaction; and

(2) legal and equitable title has passed to the entity to which the rate stabilization property is transferred.

(b) The status of the transfer as a true sale prevails regardless of any recourse the purchaser may have against the seller, or any other term of the parties' agreement, including:

(1) the seller's retention of an equity interest in the rate stabilization property;

(2) the fact that the electric company acts as the collector of qualified rate stabilization charges relating to the rate stabilization property; and

(3) the treatment of the transfer as a financing for tax, financial reporting, or other purposes.

§7–540.

(a) The interest of an assignee or pledgee in rate stabilization property and in the revenues and collections arising from that property is not subject to setoff, counterclaim, surcharge, or defense by the electric company or any other person or in connection with the bankruptcy of the electric company or any other entity.

(b) A qualified rate order remains in effect and unabated notwithstanding the bankruptcy of the electric company, its successors, or assignees.

§7–541.

(a) (1) The electric bill of an electric company that has obtained a qualified rate order and issued rate stabilization bonds must:

(i) explicitly reflect that a portion of the charges on the bill represents qualified rate stabilization charges approved in a qualified rate order issued to the electric company; and

(ii) if the rate stabilization property has been transferred to an assignee, include a statement to the effect that:

1. the assignee is the owner of the rights to qualified rate stabilization charges; and

2. the electric company or any other entity, if applicable, is acting as a collection agent or servicer for the assignee.

(2) The tariff applicable to customers must indicate the qualified rate stabilization charge and the ownership of that charge.

(b) The failure of an electric company to comply with this section may not invalidate, impair, or affect any qualified rate order, rate stabilization property, qualified rate stabilization charge, or rate stabilization bonds.

§7–542.

(a) (1) Rate stabilization property does not constitute an account or general intangible under § 9-102 of the Commercial Law Article.

(2) The creation, granting, perfection, and enforcement of liens and security interests in rate stabilization property, including all proceeds of that property, are governed by this section and not by the Maryland Uniform Commercial Code.

(b) (1) A valid and enforceable lien and security interest in intangible rate stabilization property, including all proceeds of that property, may be created only by a qualified rate order and the execution and delivery of a security agreement with a financing party in connection with the issuance of rate stabilization bonds.

(2) (i) The lien and security interest shall attach automatically from the time that value is received for the bonds.

(ii) On perfection through the filing of notice with the State Department of Assessments and Taxation in accordance with the procedures prescribed under subsection (d) of this section:

1. the lien and security interest shall be a continuously perfected lien and security interest in the rate stabilization property; and

2. all proceeds of the property, whether accrued or not, shall have priority in the order of filing and take precedence over any subsequent judicial or other lien creditor.

(3) The security interest shall be perfected:

(i) retroactive to the date value was received if notice is filed within 10 days after value is received for the rate stabilization bonds; or

(ii) as of the date of filing, if notice is not filed within that 10-day period.

(c) (1) Subject to paragraph (2) of this subsection, transfer of an interest in rate stabilization property to an assignee shall be perfected against all third parties, including subsequent judicial or other lien creditors, when:

(i) the qualified rate order becomes effective;

(ii) transfer documents have been delivered to the assignee; and

(iii) a notice of that transfer has been filed in accordance with procedures adopted under subsection (d) of this section.

(2) If notice of the transfer has not been filed in accordance with this subsection within 10 days after the delivery of transfer documentation, the transfer of the interest is not perfected against third parties until the notice is filed.

(d) The State Department of Assessments and Taxation shall implement this section by establishing and maintaining a separate system of records for the filing of notices under this section and prescribing the procedures for those filings based on Title 9 of the Maryland Uniform Commercial Code, as adapted to this subtitle and using the terms defined in this subtitle.

(e) (1) The priority of a lien and security interest perfected under this section is not impaired by:

(i) any later modification of the qualified rate order under § 7-531, § 7-533, or § 7-534 of this subtitle; or

(ii) the commingling of funds arising from qualified rate stabilization charges with other funds.

(2) Any other security interest that may apply to those funds shall be terminated when they are transferred to a segregated account for the assignee or a financing party.

(3) If rate stabilization property has been transferred to an assignee, any proceeds of that property shall be held in trust for the assignee.

(f) If a default or termination occurs under the rate stabilization bonds:

(1) the financing parties or their representatives may foreclose on or otherwise enforce their lien and security interest in any intangible rate stabilization property as if they were secured parties under Title 9 of the Maryland Uniform Commercial Code;

(2) the Commission may order that amounts arising from qualified rate stabilization charges be transferred to a separate account for the financing parties' benefit, to which their lien and security interest shall apply; and

(3) on application by or on behalf of the financing parties, the Circuit Court for Baltimore City, Business and Technology Case Management Program, shall order the sequestration and payment to the financing parties of revenues arising from the qualified rate stabilization charges.

(g) The court order under subsection (f) of this section shall remain in full force and effect notwithstanding any reorganization, bankruptcy, or other insolvency proceedings with respect to the electric company or its successors or assignees.

(h) This section does not limit any other remedies available to the applying party.

§7–543.

(a) This section applies to a person that is a successor to an electric company, whether through:

(1) a reorganization, bankruptcy, or other insolvency proceeding;

(2) a merger or acquisition, sale, or other business combination; or

(3) a transfer by operation of law.

(b) A successor to an electric company shall perform and satisfy all obligations of, and have the same rights under a qualified rate order as, the electric company under the qualified rate order in the same manner and to the same extent as the electric company, including:

(1) collecting the revenues, collections, payments, or proceeds of the rate stabilization property; and

(2) paying them to the person entitled to receive them.

§7–544.

An assignee or financing party may not be considered to be a public service company or an electricity supplier solely by virtue of the transactions described in this part.

§7–547.

This part applies to an investor-owned electric company that has an obligation to provide standard offer service under § 7-510(c) of this subtitle to residential electric customers for whom rate cap or price freeze service established under a settlement agreement approved in accordance with § 7-505(d) of this subtitle expires at the end of June 30, 2006.

§7–548.

(a) (1) (i) Notwithstanding any other provision of this article, but subject to paragraphs (2) through (4) of this subsection, an electric company to which this part applies shall file tariffs with the Commission that implement a rate stabilization plan consistent with this part.

(ii) 1. The Commission shall review the tariffs required under subparagraph (i) of this paragraph.

2. Within 20 days after the filing of the tariffs required under subparagraph (i) of this paragraph, the Commission shall issue an order implementing the rate stabilization plan in accordance with this part and Part III of this subtitle.

3. The order issued by the Commission shall include a requirement that the electric company establish regulatory assets to account for the rate stabilization costs deferred under the rate stabilization plan.

(2) Under the rate stabilization plan, the residential standard offer service rate shall recover the costs to the electric company under § 7-510(c)(3) of this subtitle deferred during the period July 1, 2006 through May 31, 2007.

(3) Any credit or charges to the cost of standard offer service for residential electric customers required or authorized under this part shall be included as a nonbypassable credit or charge on the electric distribution portion of the bill of each residential electric customer of the electric company.

(4) An electric company may apply to the Commission for a qualified rate order under Part III of this subtitle for the financing and recovery of its rate stabilization costs.

(b) (1) The increase in the total rates charged to each residential electric customer on standard offer service, as compared with the total rates for residential electric customers in effect on June 30, 2006, shall be:

(i) from July 1, 2006 through May 31, 2007, 15% of the total rate in effect on June 30, 2006; and

(ii) from June 1, 2007, at the option of the customer, to:

1. the full market rate; or

2. an intermediate level under an opt-in short-term rate stabilization plan as allowed under § 7-510(c) of this subtitle which will smooth the transition to the full market rate for residential customers without adversely affecting the creditworthiness of the electric company.

(2) Standard offer service for residential electric customers shall be at full market rates under this part starting January 1, 2008.

(3) A rate stabilization cost may not be recovered before January 1, 2007.

(4) For purposes of calculating the rates to be charged under paragraph (1) of this subsection, the rate stabilization charge may not be considered to be part of the total rates charged to residential electric customers.

(5) The Commission need not conduct evidentiary proceedings under § 7-510(c)(7)(i) of this subtitle to determine the second or subsequent phase of the transition to full market rates under this part.

(c) (1) The electric company shall provide each residential electric customer a deferral credit equal to the difference between the cost incurred by the electric company under § 7-510(c)(3) of this subtitle and the rates authorized in subsection (b)(1) of this section.

(2) (i) The total amount of cost recovery deferred through deferral credits provided to residential electric customers shall be a rate stabilization cost to be recovered as a regulatory asset.

(ii) The total cost deferred may be secured under Part III of this subtitle.

(3) (i) Subject to subparagraph (ii) of this paragraph, the electric company shall perform a reconciliation of any overcollection or undercollection of the deferred costs and expenses resulting from this rate stabilization plan:

1. each year during the rate stabilization plan; and

2. within 90 days after the end of the rate stabilization plan.

(ii) To the extent that securitization is implemented under Part III of this subtitle, any reconciliations made in accordance with subparagraph (i) of this paragraph shall be in addition to any reconciliations made under Part III of this subtitle.

(d) Rate stabilization costs shall be recovered by the electric company from the residential electric customers through a usage-based rate stabilization charge over a period not to exceed 10 years.

(e) Notwithstanding any other provision of this subtitle, as approved by the Commission, an electric company may receive a modification in distribution and transmission rates while the rate stabilization plan is in effect. However, the modification may not alter the rate stabilization charges approved in accordance with Part III of this subtitle.

§7–549.

(a) In this section, "actual cost" means the costs and expenses deferred as regulatory assets multiplied by:

(1) the electric company's cost of debt; or

(2) if the electric company secures the debt under Part III of this subtitle, the cost of the secured debt.

(b) An electric company shall recover, as an additional rate stabilization cost, the actual cost to the electric company of carrying the costs and expenses deferred as regulatory assets under the rate stabilization plan.

§7–601.

In this subtitle, "consumer" and "customer" each means a retail gas customer.

§7–602.

The General Assembly finds and declares that the purpose of this subtitle is to:

(1) clarify existing law regarding the provision of competitive retail gas supply and gas supply services in the State;

(2) require the Commission to license gas suppliers, energy salespersons, and energy vendors;

(3) authorize the Commission to adopt complaint procedures;

(4) establish certain requirements relating to the competitiveness of retail gas supply and gas supply services markets; and

(5) establish standards for the protection of consumers.

§7–603.

(a) The Commission shall license gas suppliers, energy salespersons, and energy vendors and shall have the same authority as the Commission has under §§ 7–317, 7–318, and 7–507 of this title for electricity suppliers, energy salespersons, and energy vendors, including the authority to:

(1) deny, revoke, suspend, or refuse to renew a license;

(2) impose a moratorium, civil penalty, or other remedy; or

(3) order a refund for or credit to a customer.

(b) The Commission shall adopt licensing requirements and procedures for gas suppliers, energy salespersons, and energy vendors that protect consumers, the public interest, and the collection of all State and local taxes, consistent with the requirements for electricity suppliers under Subtitle 5 of this title and energy salespersons and energy vendors under Subtitle 3 of this title.

§7–603.1.

(a) (1) Subject to subsection (b)(5) of this section, for just cause on the Commission's own investigation or on complaint of the Office of People's Counsel, the Attorney General, or an affected party, the Commission may:

(i) deny a license to, or revoke, suspend, or refuse to renew the license of, a gas supplier, an energy salesperson, or an energy vendor;

(ii) impose a civil penalty or other remedy;

(iii) order a refund or credit to a customer; or

(iv) impose a moratorium on adding or soliciting additional customers by the gas supplier, energy salesperson, or an energy vendor.

(2) A civil penalty may be imposed in addition to the Commission's decision to deny, revoke, suspend, or refuse to renew a license or impose a moratorium.

(3) Just cause includes:

(i) intentionally providing false information to the Commission;

(ii) switching, or causing to be switched, the gas supply for a customer without first obtaining the customer's permission;

(iii) failing to provide gas for its customers;

(iv) committing fraud or engaging in deceptive practices;

(v) failing to maintain financial integrity;

(vi) violating a Commission regulation or order;

(vii) failing to pay, collect, remit, or calculate accurately applicable State or local taxes;

(viii) violating a provision of this article or any other applicable consumer protection law of the State;

(ix) conviction of a felony by the licensee or principal of the licensee or any crime involving fraud, theft, or deceit;

(x) denial, suspension, or revocation of or refusal to renew a license by any State or federal authority; and

(xi) commission of any of the acts described in items (i) through (x) of this paragraph by a person that is an affiliate of the licensee or that is under common control with the licensee.

(b) (1) (i) A gas supplier, an energy vendor, or any other person, except for an energy salesperson, selling or offering to sell gas in the State in violation of this section or § 7–603 of this subtitle, after notice and an opportunity for a hearing, is subject to:

1. a civil penalty of not more than $25,000 for the violation;

2. license denial, revocation, or suspension or refusal to renew the license; or

3. both.

(ii) An energy salesperson selling or offering to sell gas in the State in violation of this section or § 7–603 of this subtitle, after notice and an opportunity for a hearing, is subject to license denial, revocation, or suspension or refusal to renew the license.

(2) Each day or part of a day a violation continues is a separate violation.

(3) Each customer to whom gas is sold or offered in violation of this section is a separate violation.

(4) The Commission shall determine the amount of any civil penalty after considering:

(i) the number of previous violations of any provision of this division by the gas supplier, energy vendor, or other person;

(ii) the gravity of the current violation;

(iii) the good faith of the gas supplier, energy vendor, or other person charged in attempting to achieve compliance after notification of the violation; and

(iv) any other matter that the Commission considers appropriate and relevant.

(5) The Commission may not impose a civil penalty on an individual energy salesperson in accordance with this subsection.

(c) In connection with a consumer complaint or Commission investigation under this section or § 7–603 of this subtitle, a gas supplier, an energy salesperson, an energy vendor, and any other person selling or offering to sell gas in the State shall provide to the Commission access to any accounts, books, papers, and documents that the Commission considers necessary to resolve the matter at issue.

(d) The Commission may order the gas supplier, energy salesperson, an energy vendor, or other person to cease adding or soliciting additional customers or to cease serving customers in the State.

§7–604.

(a) On or before July 1, 2001, the Commission shall adopt consumer protection orders or regulations for gas suppliers, energy salespersons, and energy vendors that:

(1) protect consumers from discriminatory, unfair, deceptive, and anticompetitive acts and practices in the marketing, selling, or distributing of natural gas;

(2) provide for contracting, enrollment, and billing practices and procedures; and

(3) the Commission considers necessary to protect the consumer.

(b) In adopting orders and regulations under this section, unless the Commission determines that the circumstances do not require consistency, the Commission shall:

(1) provide customers with protections consistent with applicable protections provided to retail electric customers; and

(2) impose appropriate requirements on gas suppliers, energy salespersons, and energy vendors that are consistent with applicable requirements imposed on electricity suppliers, energy salespersons, and energy vendors.

§7–604.1.

(a) The Commission shall establish a customer choice shopping website that allows a customer to sort natural gas suppliers that have open offers to supply natural gas to residential customers in the customer's service area.

(b) The website shall include:

(1) a list of all natural gas suppliers that have open offers to supply natural gas to residential customers in a customer's service area, sortable by:

(i) cost of service;

(ii) cost of natural gas per therm;

(iii) rate structure;

(iv) duration of the contract;

(v) cancellation fee; and

(vi) any other aspect of service that the Commission considers necessary;

(2) a way to compare natural gas suppliers based on the sortable items specified under item (1) of this subsection;

(3) a link to the website of each natural gas supplier with an open offer to supply natural gas to residential customers;

(4) a link to a complaint process that provides access for the customer to protect the customer's rights and make use of consumer protections through the Commission; and

(5) fact sheets on the process for comparing offers from natural gas suppliers on the website, including relevant contract terms, requirements, limitations, and fees.

(c) (1) To ensure the currency and accuracy of information required under subsection (b) of this section, the Commission shall maintain a secure portal on its website to receive information about offers to supply natural gas from natural gas suppliers.

(2) At least once a month, each natural gas supplier with an open offer to supply natural gas shall submit detailed information about the offer to the Commission through a secure portal maintained by the Commission on the Commission's website for this purpose.

(d) The Commission shall recover the cost of complying with this section in accordance with § 2–110 of this article.

§7–604.2.

(a) In this section, "default gas commodity service" means the supply of retail gas commodity service by a customer's gas company.

(b) (1) This subsection applies to residential gas supply other than default gas commodity service provided by a gas company.

(2) A gas supplier that supplies gas to residential retail gas customers:

(i) may offer gas service only at a price that does not exceed the trailing 12–month average of the gas company's default gas commodity service in the gas company's service territory as of the date of the agreement with the customer;

(ii) may offer residential gas supply only for a term not to exceed 12 months at a time and may automatically renew the term only if the gas supplier provides notice to the customer 90 days before and 30 days before renewal;

(iii) subject to paragraph (3) of this subsection, may not offer a variable rate other than a rate that adjusts for seasonal variation not more than twice in a single year; and

(iv) may not pay a commission or other incentive–based compensation to an energy salesperson for enrolling customers.

(3) Paragraph (2)(iii) of this subsection does not prohibit the offer and use of rates that differ based on the total number of therms used by a customer in any billing period.

(4) A gas supplier that supplies gas to residential retail gas customers may not sell to a gas company, and a gas company may not purchase from the gas supplier, accounts receivable.

(c) A gas company and a gas supplier that supplies gas to residential retail gas customers shall establish a mechanism for a customer whose account number or customer choice identification number has been compromised to receive a replacement account number or customer choice identification number on request, subject to verification in a manner approved by the Commission.

(d) (1) Except as provided in paragraph (2) of this subsection, as approved by the Commission by regulation or order, each gas company and each gas supplier that supplies gas to residential retail gas customers shall allow a customer to indicate the customer's intention to remain on default gas commodity service indefinitely and not to receive directed marketing contacts from gas suppliers through the implementation of a "do not transfer" list onto which the customer may request to be placed.

(2) A gas supplier that supplies gas to residential retail gas customers may contact a customer on a "do not transfer" list until the gas supply agreement entered into between the gas supplier and the customer expires.

(e) (1) In this subsection, "billing entity" means a gas company, a licensed gas supplier, or any other entity that is responsible for issuing a gas bill to a residential customer.

(2) On or before the 15th day of each month, each billing entity shall submit a report to the Commission on customer choice in its service territory for the preceding month, including:

(i) the total therms distributed to customers purchasing gas from a third–party gas supplier;

(ii) the total supply cost charged to customers purchasing gas from a third–party gas supplier;

(iii) the total cost that customers specified in item (ii) of this paragraph would have paid under default gas commodity service;

(iv) the net third–party total cost compared to the net default gas commodity service cost;

(v) the total third–party average rate;

(vi) the default gas commodity service average rate;

(vii) the difference between the total third–party average rate and the default gas commodity service average rate;

(viii) the third–party average residential rates broken out by supplier and the variance between each of these rates and the default gas commodity service average rate;

(ix) the third–party average general service nondemand rates broken out by supplier and the variance between each of these third–party rates and the default gas commodity service average rate;

(x) the third–party average general service demand rates broken out by supplier and the variance between each of these third–party rates and the default gas commodity service average rate;

(xi) the third–party average large power demand rates broken out by supplier and the variance between each of these third–party rates and the default gas commodity service average rate; and

(xii) other pertinent information the Commission considers appropriate.

(f) The Commission shall, by regulation or order, adopt procedures to carry out this section.

§7–605.

(a) This subtitle may not be construed to:

(1) affect the authority of the Division of Consumer Protection of the Office of the Attorney General to enforce violations of Titles 13 and 14 of the Commercial Law Article or any other applicable State law or regulation in connection with the activities of gas suppliers, energy salespersons, or energy vendors; or

(2) exempt gas companies, gas suppliers, energy salespersons, and energy vendors from otherwise applicable State or federal consumer protection and antitrust laws.

(b) The Commission shall consult with the Consumer Protection Division of the Office of the Attorney General before adopting regulations designed to protect consumers of gas supply and gas supply services.

(c) The People's Counsel has the same authority in licensing, complaint, and dispute resolution proceedings as the People's Counsel has under Subtitle 5 of this title and Title 2 of this article.

(d) In connection with a consumer complaint or Commission investigation under this subtitle, a gas supplier, an energy salesperson, or an energy vendor shall provide to the Commission access to any accounts, books, papers, and documents that the Commission considers necessary to resolve a matter in dispute.

§7–606.

The Commission may adopt regulations or adopt orders to implement this subtitle that it considers necessary and in the public interest.

§7–607.

This subtitle may be referred to as the "Natural Gas Supplier Licensing and Consumer Protection Act of 2000".

§7–701.

(a) In this subtitle the following words have the meanings indicated.

(b) "Administration" means the Maryland Energy Administration.

(c) "Fund" means the Maryland Strategic Energy Investment Fund established under § 9–20B–05 of the State Government Article.

(d) "Geothermal heating and cooling system" means a system that:

(1) exchanges thermal energy from groundwater or a shallow ground source to generate thermal energy through a geothermal heat pump or a system of geothermal heat pumps interconnected with any geothermal extraction facility that is:

(i) a closed loop or a series of closed loop systems in which fluid is permanently confined within a pipe or tubing and does not come in contact with the outside environment; or

(ii) an open loop system in which ground or surface water is circulated in an environmentally safe manner directly into the facility and returned to the same aquifer or surface water source;

(2) meets or exceeds the current federal Energy Star product specification standards;

(3) is manufactured, installed, and operated in accordance with applicable government and industry standards; and

(4) does not feed electricity back to the grid.

(e) "Industrial process load" means the consumption of electricity by a manufacturing process at an establishment classified in the manufacturing sector under the North American Industry Classification System, Codes 31 through 33.

(e–1) "Legacy geothermal system" means a geothermal heating and cooling system that was placed in service on or before December 31, 2022.

(f) "Offshore wind energy" means energy generated by a qualified offshore wind project.

(g) "Offshore wind renewable energy credit" or "OREC" means a renewable energy credit equal to the generation attributes of 1 megawatt–hour of electricity that is derived from offshore wind energy.

(g–1) "Offshore wind transmission project" means an electric transmission project selected by the Commission under § 7–704.3 of this subtitle to interconnect directly or indirectly with one or more qualified offshore wind projects.

(h) "Old growth timber" means timber from a forest:

(1) at least 5 acres in size with a preponderance of old trees, of which the oldest exceed at least half the projected maximum attainable age for the species; and

(2) that exhibits several of the following characteristics:

(i) shade–tolerant species are present in all age and size classes;

(ii) randomly distributed canopy gaps are present;

(iii) a high degree of structural diversity characterized by multiple growth layers reflecting a broad spectrum of ages is present;

(iv) an accumulation of dead wood of varying sizes and stages of decomposition accompanied by decadence in live dominant trees is present; and

(v) pit and mound topography can be observed.

(i) "Post–2022 geothermal system" means a geothermal heating and cooling system that is placed in service on or after January 1, 2023.

(j) "Poultry litter" means the fecal and urinary excretions of poultry, including wood shavings, sawdust, straw, rice hulls, and other bedding material for the disposition of manure.

(k) "Qualified offshore wind project" means a wind turbine electricity generation facility, including the associated transmission–related interconnection facilities and equipment, that:

(1) is located:

(i) on the outer continental shelf of the Atlantic Ocean in an area that the United States Department of the Interior designates for leasing; and

(ii) more than 10 miles off the coast of the State for a project selected under § 7–704.4 of this subtitle or approved under § 7–704.1 of this subtitle after June 1, 2023; and

(2) interconnects to the PJM Interconnection grid:

(i) at a point located on the Delmarva Peninsula; or

(ii) through an offshore wind transmission project selected under § 7–704.3 of this subtitle.

(l) (1) "Qualifying biomass" means a nonhazardous, organic material that is available on a renewable or recurring basis, and is:

(i) waste material that is segregated from inorganic waste material and is derived from sources including:

1. except for old growth timber, any of the following forest–related resources:

A. mill residue, except sawdust and wood shavings;

B. precommercial soft wood thinning;

C. slash;

D. brush; or

E. yard waste;

2. a pallet, crate, or dunnage;

3. agricultural and silvicultural sources, including tree crops, vineyard materials, grain, legumes, sugar, and other crop by–products or residues; or

4. gas produced from the anaerobic decomposition of animal waste or poultry waste; or

(ii) a plant that is cultivated exclusively for purposes of being used at a Tier 1 renewable source or a Tier 2 renewable source to produce electricity.

(2) "Qualifying biomass" includes biomass listed in paragraph (1) of this subsection that is used for co–firing, subject to § 7–704(d) of this subtitle.

(3) "Qualifying biomass" does not include:

(i) unsegregated solid waste or postconsumer wastepaper;

(ii) black liquor, or any product derived from black liquor; or

(iii) an invasive exotic plant species.

(m) "Renewable energy credit" or "credit" means a credit equal to the generation attributes of 1 megawatt–hour of electricity that is derived from a Tier 1 renewable source or a Tier 2 renewable source that is located:

(1) in the PJM region;

(2) outside the area described in item (1) of this subsection but in a control area that is adjacent to the PJM region, if the electricity is delivered into the PJM region; or

(3) on the outer continental shelf of the Atlantic Ocean in an area that:

(i) the United States Department of the Interior designates for leasing after coordination and consultation with the State in accordance with § 388(a) of the Energy Policy Act of 2005; and

(ii) is between 10 and 80 miles off the coast of the State.

(n) "Renewable energy portfolio standard" or "standard" means the percentage of electricity sales at retail in the State that is to be derived from Tier 1 renewable sources and Tier 2 renewable sources in accordance with § 7–703(b) of this subtitle.

(o) "Renewable on–site generator" means a person who generates electricity on site from a Tier 1 renewable source or a Tier 2 renewable source for the person's own use.

(p) "Round 1 offshore wind project" means a qualified offshore wind project that:

(1) is between 10 and 30 miles off the coast of the State; and

(2) the Commission approved under § 7–704.1 of this subtitle before July 1, 2017.

(p–1) "Round 2 offshore wind project" means a qualified offshore wind project that:

(1) is not less than 10 miles off the coast of the State; and

(2) the Commission approves under § 7–704.1 of this subtitle on or after July 1, 2017.

(q) (1) "Solar water heating system" means a system that:

(i) consists of glazed liquid–type flat–plate or tubular solar collectors or concentrating solar thermal collectors as defined and certified to the OG–100 standard of the Solar Ratings and Certification Corporation;

(ii) generates energy using solar radiation for the purpose of heating water; and

(iii) does not feed electricity back to the electric grid.

(2) "Solar water heating system" does not include a system that generates energy using solar radiation for the sole purpose of heating a hot tub or swimming pool.

(r) "Thermal biomass system" means a system that:

(1) uses:

(i) primarily animal manure, including poultry litter, and associated bedding to generate thermal energy; and

(ii) food waste or qualifying biomass for the remainder of the feedstock;

(2) is used in the State; and

(3) complies with all applicable State and federal statutes and regulations, as determined by the appropriate regulatory authority.

(s) "Tier 1 renewable source" means one or more of the following types of energy sources:

(1) solar energy, including energy from photovoltaic technologies and solar water heating systems;

(2) wind;

(3) qualifying biomass;

(4) methane from the anaerobic decomposition of organic materials in a landfill or wastewater treatment plant;

(5) geothermal, including energy generated through geothermal exchange from or thermal energy avoided by, groundwater or a shallow ground source;

(6) ocean, including energy from waves, tides, currents, and thermal differences;

(7) a fuel cell that produces electricity from a Tier 1 renewable source under item (3) or (4) of this subsection;

(8) a small hydroelectric power plant of less than 30 megawatts in capacity that is licensed or exempt from licensing by the Federal Energy Regulatory Commission;

(9) poultry litter–to–energy;

(10) thermal energy from a thermal biomass system; and

(11) raw or treated wastewater used as a heat source or sink for a heating or cooling system.

(t) "Tier 2 renewable source" means hydroelectric power other than pump storage generation.

§7–702.

(a) It is the intent of the General Assembly to:

(1) recognize the economic, environmental, fuel diversity, and security benefits of renewable energy resources;

(2) reduce greenhouse gas emissions and eliminate carbon–fueled generation from the State's electric grid by using these resources;

(3) establish a market for electricity from these resources in Maryland; and

(4) lower the cost to consumers of electricity produced from these resources.

(b) The General Assembly finds that:

(1) the benefits of electricity from renewable energy resources, including long–term decreased emissions, a healthier environment, increased energy security, and decreased reliance on and vulnerability from imported energy sources, accrue to the public at large;

(2) electricity suppliers and consumers share an obligation to develop a minimum level of these resources in the electricity supply portfolio of the State; and

(3) the State needs to increase its reliance on renewable energy in order to:

(i) reduce greenhouse gas emissions and meet the State's greenhouse gas emissions reduction goals under § 2–1205 of the Environment Article; and

(ii) provide opportunities for small, minority, women–owned, and veteran–owned businesses to participate in and develop a highly skilled workforce for clean energy industries in the State.

§7–703.

(a) (1) (i) The Commission shall implement a renewable energy portfolio standard that, except as provided under paragraphs (2) and (3) of this subsection, applies to all retail electricity sales in the State by electricity suppliers.

(ii) If the standard becomes applicable to electricity sold to a customer after the start of a calendar year, the standard does not apply to electricity sold to the customer during that portion of the year before the standard became applicable.

(2) A renewable energy portfolio standard may not apply to electricity sales at retail by any electricity supplier:

(i) in excess of 300,000,000 kilowatt–hours of industrial process load to a single customer in a year;

(ii) to residential customers in a region of the State in which electricity prices for residential customers are subject to a freeze or cap contained in a settlement agreement entered into under § 7–505 of this title until the freeze or cap has expired; or

(iii) to a customer served by an electric cooperative under an electricity supplier purchase agreement that existed on October 1, 2004, until the expiration of the agreement, as the agreement may be renewed or amended.

(3) The portion of a renewable energy portfolio standard that represents offshore wind energy:

(i) applies only to the distribution sales of electric companies; and

(ii) may not apply to distribution sales by any electric company in excess of:

1. 75,000,000 kilowatt–hours of industrial process load to a single customer in a year; and

2. 3,000 kilowatt–hours of electricity in a month to a customer who is an owner of agricultural land and files an Internal Revenue Service form 1040, schedule F.

(b) Except as provided in subsections (e) and (f) of this section, the renewable energy portfolio standard shall be as follows:

(1) in 2006, 1% from Tier 1 renewable sources and 2.5% from Tier 2 renewable sources;

(2) in 2007, 1% from Tier 1 renewable sources and 2.5% from Tier 2 renewable sources;

(3) in 2008, 2.005% from Tier 1 renewable sources, including at least 0.005% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(4) in 2009, 2.01% from Tier 1 renewable sources, including at least 0.01% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(5) in 2010, 3.025% from Tier 1 renewable sources, including at least 0.025% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(6) in 2011, 5.0% from Tier 1 renewable sources, including at least 0.05% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(7) in 2012, 6.5% from Tier 1 renewable sources, including at least 0.1% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(8) in 2013, 8.2% from Tier 1 renewable sources, including at least 0.25% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(9) in 2014, 10.3% from Tier 1 renewable sources, including at least 0.35% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(10) in 2015, 10.5% from Tier 1 renewable sources, including at least 0.5% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(11) in 2016, 12.7% from Tier 1 renewable sources, including at least 0.7% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(12) in 2017:

(i) 13.1% from Tier 1 renewable sources, including:

1. at least 1.15% derived from solar energy; and

2. an amount set by the Commission under § 7–704.2(a) of this subtitle, not to exceed 2.5%, derived from offshore wind energy; and

(ii) 2.5% from Tier 2 renewable sources;

(13) in 2018:

(i) 15.8% from Tier 1 renewable sources, including:

1. at least 1.5% derived from solar energy; and

2. an amount set by the Commission under § 7–704.2(a) of this subtitle, not to exceed 2.5%, derived from offshore wind energy; and

(ii) 2.5% from Tier 2 renewable sources;

(14) in 2019:

(i) 20.7% from Tier 1 renewable sources, including:

1. at least 5.5% derived from solar energy; and

2. an amount set by the Commission under § 7–704.2(a) of this subtitle, not to exceed 2.5%, derived from offshore wind energy; and

(ii) 2.5% from Tier 2 renewable sources;

(15) in 2020:

(i) 28% from Tier 1 renewable sources, including:

1. at least 6% derived from solar energy; and

2. an amount set by the Commission under § 7–704.2(a) of this subtitle, not to exceed 2.5%, derived from offshore wind energy; and

(ii) 2.5% from Tier 2 renewable sources;

(16) in 2021:

(i) 30.8% from Tier 1 renewable sources, including:

1. at least 7.5% derived from solar energy; and

2. an amount set by the Commission under § 7–704.2(a) of this subtitle derived from offshore wind energy; and

(ii) 2.5% from Tier 2 renewable sources;

(17) in 2022:

(i) 30.1% from Tier 1 renewable sources, including:

1. at least 5.5% derived from solar energy; and

2. an amount set by the Commission under § 7–704.2(a) of this subtitle derived from offshore wind energy; and

(ii) 2.5% from Tier 2 renewable sources;

(18) in 2023:

(i) 31.9% from Tier 1 renewable sources, including:

1. at least 6% derived from solar energy;

2. an amount set by the Commission under § 7–704.2(a) of this subtitle derived from offshore wind energy; and

3. at least 0.05% derived from post–2022 geothermal systems; and

(ii) 2.5% from Tier 2 renewable sources;

(19) in 2024:

(i) 33.7% from Tier 1 renewable sources, including:

1. at least 6.5% derived from solar energy;

2. an amount set by the Commission under § 7–704.2(a) of this subtitle derived from offshore wind energy; and

3. at least 0.15% derived from post–2022 geothermal systems; and

(ii) 2.5% from Tier 2 renewable sources;

(20) in 2025:

(i) 35.5% from Tier 1 renewable sources, including:

1. at least 7% derived from solar energy;

2. an amount set by the Commission under § 7–704.2(a) of this subtitle, not to exceed 10%, derived from offshore wind energy; and

3. at least 0.25% derived from post–2022 geothermal systems; and

(ii) 2.5% from Tier 2 renewable sources;

(21) in 2026:

(i) 38% from Tier 1 renewable sources, including:

1. at least 8% derived from solar energy;

2. an amount set by the Commission under § 7–704.2(a) of this subtitle derived from offshore wind energy, including at least 400 megawatts of Round 2 offshore wind projects; and

3. at least 0.5% derived from post–2022 geothermal systems; and

(ii) 2.5% from Tier 2 renewable sources;

(22) in 2027:

(i) 41.5% from Tier 1 renewable sources, including:

1. at least 9.5% derived from solar energy;

2. an amount set by the Commission under § 7–704.2(a) of this subtitle derived from offshore wind energy, including at least 400 megawatts of Round 2 offshore wind projects; and

3. at least 0.75% derived from post–2022 geothermal systems; and

(ii) 2.5% from Tier 2 renewable sources;

(23) in 2028:

(i) 43% from Tier 1 renewable sources, including:

1. at least 11% derived from solar energy;

2. an amount set by the Commission under § 7–704.2(a) of this subtitle derived from offshore wind energy, including at least 800 megawatts of Round 2 offshore wind projects; and

3. at least 1% derived from post–2022 geothermal systems; and

(ii) 2.5% from Tier 2 renewable sources;

(24) in 2029:

(i) 49.5% from Tier 1 renewable sources, including:

1. at least 12.5% derived from solar energy;

2. an amount set by the Commission under § 7–704.2(a) of this subtitle derived from offshore wind energy, including at least 800 megawatts of Round 2 offshore wind projects; and

3. at least 1% derived from post–2022 geothermal systems; and

(ii) 2.5% from Tier 2 renewable sources; and

(25) in 2030 and later:

(i) 50% from Tier 1 renewable sources, including:

1. at least 14.5% derived from solar energy;

2. an amount set by the Commission under § 7–704.2(a) of this subtitle derived from offshore wind energy, including at least 1,200 megawatts of Round 2 offshore wind projects; and

3. at least 1% derived from post–2022 geothermal systems; and

(ii) 2.5% from Tier 2 renewable sources.

(c) Before calculating the number of credits required to meet the percentages established under subsection (b) of this section, an electricity supplier shall exclude from its total retail electricity sales all retail electricity sales described in subsection (a)(2) and (3) of this section.

(d) (1) Subject to subsections (a) and (c) of this section, an electricity supplier shall meet the renewable energy portfolio standard for all Tier 1 and Tier 2 renewable sources except offshore wind by accumulating the equivalent amount of renewable energy credits that equal the percentages required under this section.

(2) An electric company shall meet the renewable energy portfolio standard for offshore wind in accordance with § 7–704.2 of this subtitle.

(e) (1) The required percentage of an electric cooperative's renewable energy portfolio standard derived from solar energy shall be 2.5% in 2020 and later.

(2) The required percentage of a municipal electric utility's renewable energy portfolio standard shall be:

(i) in 2021:

1. 20.4% from Tier 1 renewable sources, including:

A. at least 1.95% derived from solar energy; and

B. an amount set by the Commission under § 7–704.2(a) of this subtitle, not to exceed 2.5%, derived from offshore wind energy; and

2. 2.5% from Tier 2 renewable sources; and

(ii) in 2022 and later, 20.4% from Tier 1 renewable sources, including:

1. at least 1.95% derived from solar energy; and

2. an amount set by the Commission under § 7–704.2(a) of this subtitle, not to exceed 2.5%, derived from offshore wind energy.

(f) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Area median income" has the meaning stated in § 4–1801 of the Housing and Community Development Article.

(iii) "Low or moderate income housing" means housing that is affordable for a household with an aggregate annual income that is below 120% of the area median income.

(2) At least 25% of the required percentage of the renewable energy portfolio for each year as set forth in subsection (b) of this section derived from post–2022 geothermal systems shall be derived from systems that were installed:

(i) at single or multifamily housing units that qualified as low or moderate income housing on the date the system was installed on the property; or

(ii) at institutions that primarily serve low and moderate income individuals and families, including:

1. schools with a majority of students who are eligible for free and reduced price meals;

2. hospitals with a majority of patients eligible for financial assistance or who are enrolled in Medicaid; and

3. other institutions that serve individuals and families where the majority of those served are eligible based on income for federal or State safety net programs.

§7–704.

(a) (1) Energy from a Tier 1 renewable source:

(i) is eligible for inclusion in meeting the renewable energy portfolio standard regardless of when the generating system or facility was placed in service; and

(ii) may be applied to the percentage requirements of the standard for either Tier 1 renewable sources or Tier 2 renewable sources.

(2) (i) Energy from a Tier 1 renewable source under § 7–701(s)(1), (5), or (9) of this subtitle is eligible for inclusion in meeting the renewable energy portfolio standard only if the source is connected with the electric distribution grid serving Maryland.

(ii) Energy from a Tier 1 renewable source under § 7–701(s)(11) of this subtitle is eligible for inclusion in meeting the renewable energy portfolio standard only if the source:

1. is connected with the electric distribution grid serving Maryland; or

2. processes wastewater from Maryland residents.

(iii) If the owner of a solar generating system in this State chooses to sell solar renewable energy credits from that system, the owner must first offer the credits for sale to an electricity supplier or electric company that shall apply them toward compliance with the renewable energy portfolio standard under § 7–703 of this subtitle.

(3) Energy from a Tier 1 renewable source under § 7–701(s)(8) of this subtitle is eligible for inclusion in meeting the renewable energy portfolio standard if it is generated at a dam that existed as of January 1, 2004, even if a system or facility that is capable of generating electricity did not exist on that date.

(4) Energy from a Tier 2 renewable source under § 7–701(t) of this subtitle is eligible for inclusion in meeting the renewable energy portfolio standard if it is generated at a system or facility that existed and was operational as of January 1, 2004, even if the facility or system was not capable of generating electricity on that date.

(b) On or after January 1, 2004, an electricity supplier may:

(1) receive renewable energy credits; and

(2) accumulate renewable energy credits under this subtitle.

(c) (1) This subsection applies only to a generating facility that is placed in service on or after January 1, 2004.

(2) (i) On or before December 31, 2005, an electricity supplier shall receive 120% credit toward meeting the renewable energy portfolio standard for energy derived from wind.

(ii) After December 31, 2005, and on or before December 31, 2008, an electricity supplier shall receive 110% credit toward meeting the renewable energy portfolio standard for energy derived from wind.

(3) On or before December 31, 2008, an electricity supplier shall receive 110% credit toward meeting the renewable energy portfolio standard for energy derived from methane under § 7–701(r)(4) of this subtitle.

(d) An electricity supplier shall receive credit toward meeting the renewable energy portfolio standard for electricity derived from the biomass fraction of biomass co–fired with other fuels.

(e) (1) In this subsection, "customer" means:

(i) an industrial electric customer that is not on standard offer service; or

(ii) a renewable on–site generator.

(2) This subsection does not apply to offshore wind renewable energy credits.

(3) (i) A customer may independently acquire renewable energy credits to satisfy the standards applicable to the customer's load, including credits created by a renewable on–site generator.

(ii) Credits that a customer transfers to its electricity supplier to meet the standard and that the electricity supplier relies on in submitting its compliance report may not be resold or retransferred by the customer or by the electricity supplier.

(4) A renewable on–site generator may retain or transfer at its sole option any credits created by the renewable on–site generator, including credits for the portion of its on–site generation from a Tier 1 renewable source or a Tier 2 renewable source that displaces the purchase of electricity by the renewable on–site generator from the grid.

(5) A customer that satisfies the standard applicable to the customer's load under this subsection may not be required to contribute to a compliance fee recovered under § 7–706 of this subtitle.

(6) The Commission shall adopt regulations governing the application and transfer of credits under this subsection consistent with federal law.

(f) (1) In order to create a renewable energy credit, a Tier 1 renewable source or Tier 2 renewable source must substantially comply with all applicable environmental and administrative requirements, including air quality, water quality, solid waste, and right–to–know provisions, permit conditions, and administrative orders.

(2) (i) This paragraph applies to Tier 1 renewable sources that incinerate solid waste.

(ii) At least 80% of the solid waste incinerated at a Tier 1 renewable source facility shall be collected from:

1. for areas in Maryland, jurisdictions that achieve the recycling rates required under § 9–505 of the Environment Article; and

2. for other states, jurisdictions for which the electricity supplier demonstrates recycling substantially comparable to that required under § 9–505 of the Environment Article, in accordance with regulations of the Commission.

(iii) An electricity supplier may report credits received under this paragraph based on compliance by the facility with the percentage requirement of subparagraph (ii) of this paragraph during the year immediately preceding the year in which the electricity supplier receives the credit to apply to the standard.

(g) (1) Energy from a solar water heating system is eligible for inclusion in meeting the renewable energy portfolio standard.

(2) A person that owns and operates a solar water heating system shall receive a renewable energy credit equal to the amount of energy, converted from

BTUs to kilowatt–hours, that is generated by the system that is used by the person for water heating.

(3) The total amount of energy generated and consumed for a nonresidential or commercial solar water heating system shall be measured by an on–site meter that meets the required performance standards of the International Organization of Legal Metrology.

(4) The total amount of energy generated and consumed by a residential solar water heating system shall be:

(i) measured by a meter that meets the required standards of the International Organization of Legal Metrology; or

(ii) 1. measured by the Solar Ratings and Certification Corporation's OG–300 thermal performance rating for the system or an equivalent certification that the Commission approves in consultation with the Administration; and

2. certified to the OG–300 standard of the Solar Ratings and Certification Corporation or an equivalent certification body that the Commission approves in consultation with the Administration.

(5) A residential solar water heating system shall be installed in accordance with applicable State and local plumbing codes.

(6) A residential solar water heating system may not produce more than five solar renewable energy credits in any 1 year.

(h) (1) Except as provided in paragraph (6) of this subsection, energy from a geothermal heating and cooling system, including energy from a legacy geothermal system and energy from a post–2022 geothermal system, is eligible for inclusion in meeting the renewable energy portfolio standard.

(2) A person shall receive a renewable energy credit equal to the amount of energy, converted from BTUs to kilowatt–hours, that is generated by a geothermal heating and cooling system for space heating and cooling or water heating if the person:

(i) owns and operates the system;

(ii) leases and operates the system; or

(iii) contracts with a third party who owns and operates the portion of the system that consists of:

1. a closed loop or a series of closed loop systems in which fluid is permanently confined within a pipe or tubing and does not come in contact with the outside environment; or

2. an open loop system in which ground or surface water is circulated in an environmentally safe manner directly into the facility and returned to the same aquifer or surface water source.

(3) To determine the energy savings of a geothermal heating and cooling system for a residence, the Commission shall:

(i) identify available energy consumption calculators developed by the geothermal heating and cooling industry;

(ii) collect the following data provided in the renewable energy credit application that:

1. describes the name of the applicant and the address at which the geothermal heating and cooling system is installed; and

2. provides the annual BTU energy savings attributable to home heating, cooling, and water heating; and

(iii) in determining the annual amount of renewable energy credits awarded for the geothermal heating and cooling system, convert the annual BTUs into annual megawatt–hours.

(4) To determine the energy savings of a nonresidential geothermal heating and cooling system, the Commission shall:

(i) use the geothermal heating and cooling engineering technical system designs provided with the renewable energy credit application; and

(ii) in determining the annual amount of renewable energy credits awarded for the geothermal heating and cooling system, convert the annual BTUs into annual megawatt–hours.

(5) A geothermal heating and cooling system shall be installed in accordance with applicable State well construction and local building code standards.

(6) (i) A post–2022 geothermal system with a 360,000 BTU capacity is eligible for inclusion in meeting the renewable energy portfolio standard only if the company installing the system provides for its employees:

1. family–sustaining wages;

2. employer–provided health care with affordable deductibles and co–pays;

3. career advancement training, as provided in subparagraph (ii) of this paragraph;

4. fair scheduling;

5. employer–paid workers' compensation and unemployment insurance;

6. a retirement plan;

7. paid time off; and

8. the right to bargain collectively for wages and benefits.

(ii) As part of the career advancement training the installation company provides, the company shall ensure that a minimum of 10% of the employees working on the installation are enrolled in an apprenticeship program approved by and registered with the State or the federal government.

(iii) Compliance with this paragraph shall be regulated and enforced by the Maryland Department of Labor.

(i) (1) Energy from a thermal biomass system is eligible for inclusion in meeting the renewable energy portfolio standard.

(2) (i) A person that owns and operates a thermal biomass system that uses anaerobic digestion is eligible to receive a renewable energy credit.

(ii) A person that owns and operates a thermal biomass system that uses a thermochemical process is eligible to receive a renewable energy credit if the person demonstrates to the Maryland Department of the Environment that the operation of the thermal biomass system:

1. is not significantly contributing to local or regional air quality impairments; and

2. will substantially decrease emissions of oxides of nitrogen beyond that achieved by a direct burn combustion unit through the use of precombustion techniques, combustion techniques, or postcombustion techniques.

(3) A person that is eligible to receive a renewable energy credit under paragraph (2) of this subsection shall receive a renewable energy credit equal to the amount of energy, converted from BTUs to kilowatt–hours, that is generated by the thermal biomass system and used on site.

(4) The total amount of energy generated and consumed for a residential, nonresidential, or commercial thermal biomass system shall be measured by an on–site meter that meets the required performance standards established by the Commission.

(5) The Commission shall adopt regulations for the metering, verification, and reporting of the output of thermal biomass systems.

(j) (1) Energy from a wastewater heating or cooling system is eligible for inclusion in meeting the renewable energy portfolio standard.

(2) A person shall receive a renewable energy credit equal to the amount of energy, converted from BTUs to kilowatt–hours, that is generated by a wastewater heating or cooling system for space heating or cooling, industrial heating or cooling, or another useful thermal purpose, if the person:

(i) owns and operates the system;

(ii) leases and operates the system; or

(iii) contracts with a third party who owns and operates the system.

(3) To determine the energy savings of a wastewater heating or cooling system, the Commission shall:

(i) use the wastewater heating or cooling engineering technical system designs provided with the renewable energy credit application; and

(ii) in determining the annual amount of renewable energy credits awarded for the wastewater heating or cooling system, convert the annual BTUs into annual megawatt–hours.

(4) The Commission shall adopt regulations for the metering, verification, and reporting of the output of wastewater heating or cooling systems.

§7–704.1.

(a) (1) The General Assembly finds and declares that:

(i) the State has a goal of reaching 8,500 megawatts of offshore wind energy capacity by 2031, including Round 1 offshore wind projects, Round 2 offshore wind projects, and any other procurement efforts;

(ii) the General Assembly anticipates the issuance of sufficient wind energy leases in the central Atlantic region to satisfy the goal stated in item (i) of this paragraph;

(iii) the development of offshore wind energy is important to the economic well–being of the State and the nation;

(iv) offshore wind can provide clean energy at the scale needed to help achieve the State's economy–wide net–zero greenhouse gas emissions reduction targets established in Chapter 38 of the Acts of the General Assembly of 2022;

(v) it is in the public interest of the State to facilitate the construction of at least 1,200 megawatts of Round 2 offshore wind projects in order to:

1. position the State to take advantage of the economic development benefits of the emerging offshore wind industry;

2. promote the development of renewable energy sources that increase the nation's independence from foreign sources of fossil fuels;

3. reduce the adverse environmental and health impacts of traditional fossil fuel energy sources; and

4. provide a long–term hedge against volatile prices of fossil fuels; and

(vi) it is in the public interest of the State to maximize the opportunities for obtaining and using federal funds for offshore wind and related transmission projects through the inclusion of specified labor standards and goals, domestic content requirements, and other provisions to align State law with

provisions of the federal Infrastructure Investment and Jobs Act of 2021 and the federal Inflation Reduction Act of 2022.

(2) After the effective date of Commission regulations implementing this section and § 7–704.2 of this subtitle, and before June 30, 2017, a person may submit an application to the Commission for approval of a proposed Round 1 offshore wind project.

(3) (i) On receipt of the application for approval of a Round 1 offshore wind project, the Commission shall:

1. open an application period when other interested persons may submit applications for approval of Round 1 offshore wind projects; and

2. provide notice that the Commission is accepting applications for approval of Round 1 offshore wind projects.

(ii) The Commission shall set the closing date for the application period to be no sooner than 90 days after the notice provided under subparagraph (i) of this paragraph.

(4) The Commission shall provide additional application periods beginning, respectively:

(i) January 1, 2020, for consideration of Round 2 offshore wind projects to begin creating ORECs not later than 2026;

(ii) January 1, 2021, for consideration of Round 2 offshore wind projects to begin creating ORECs not later than 2028; and

(iii) January 1, 2022, for consideration of Round 2 offshore wind projects to begin creating ORECs not later than 2030.

(5) In its discretion, the Commission may provide for additional application periods that meet the requirements of this section.

(b) Unless extended by mutual consent of the parties, the Commission shall approve, conditionally approve, or deny an application within 180 days after the close of the application period.

(c) An application shall include:

(1) a detailed description and financial analysis of the offshore wind project;

(2) the proposed method of financing the offshore wind project, including documentation demonstrating that the applicant has applied for all current eligible State and federal grants, rebates, tax credits, loan guarantees, or other programs available to offset the cost of the project or provide tax advantages;

(3) a cost–benefit analysis that shall include at a minimum:

(i) a detailed input–output analysis of the impact of the offshore wind project on income, employment, wages, and taxes in the State with particular emphasis on in–State manufacturing employment;

(ii) detailed information concerning assumed employment impacts in the State, including the expected duration of employment opportunities, the salary of each position, and other supporting evidence of employment impacts;

(iii) an analysis of the anticipated environmental benefits, health benefits, and environmental impacts of the offshore wind project to the citizens of the State;

(iv) an analysis of any impact on residential, commercial, and industrial ratepayers over the life of the offshore wind project;

(v) an analysis of any long–term effect on energy and capacity markets as a result of the proposed offshore wind project;

(vi) an analysis of any impact on businesses in the State; and

(vii) other benefits, such as increased in–State construction, operations, maintenance, and equipment purchase;

(4) a proposed OREC pricing schedule for the offshore wind project that shall specify a price for the generation attributes, including the energy, capacity, ancillary services, and environmental attributes;

(5) a decommissioning plan for the project, including provisions for decommissioning as required by the United States Department of the Interior;

(6) a commitment to:

(i) abide by the requirements set forth in subsection (f) of this section; and

(ii) deposit at least $6,000,000, in the manner required under subsection (h) of this section, into the Maryland Offshore Wind Business Development Fund established under § 9–20C–03 of the State Government Article;

(7) a description of the applicant's plan for engaging small businesses, as defined in § 14–501 of the State Finance and Procurement Article;

(8) a commitment that the applicant will:

(i) use best efforts to apply for all eligible State and federal grants, rebates, tax credits, loan guarantees, or other similar benefits as those benefits become available; and

(ii) subject to subsection (k) of this section, pass along to ratepayers, without the need for any subsequent Commission approval, 80% of the value of any State or federal grants, rebates, tax credits, loan guarantees, or other similar benefits received by the project and not included in the application; and

(9) any other information the Commission requires.

(d) The following are subject to a community benefit agreement under subsection (f) of this section:

(1) an application for any new qualified offshore wind project; and

(2) a proposal selected by the Commission under § 7–704.3 of this subtitle for an offshore wind transmission project.

(e) (1) The Commission shall use the following criteria to evaluate and compare proposed offshore wind projects submitted during an application period:

(i) lowest cost impact on ratepayers of the price set under a proposed OREC pricing schedule;

(ii) potential reductions in transmission congestion prices within the State;

(iii) potential changes in capacity prices within the State;

(iv) potential reductions in locational marginal pricing;

(v) potential long–term changes in capacity prices within the State from the offshore wind project as it compares to conventional energy sources;

(vi) the extent to which the cost–benefit analysis submitted under subsection (c)(3) of this section demonstrates positive net economic, environmental, and health benefits to the State;

(vii) the extent to which an applicant's plan for engaging small businesses meets the goals specified in Title 14, Subtitle 5 of the State Finance and Procurement Article;

(viii) the extent to which an applicant's plan provides for the use of skilled labor, particularly with regard to the construction and manufacturing components of the project, through outreach, hiring, or referral systems that are affiliated with registered apprenticeship programs under Title 11, Subtitle 4 of the Labor and Employment Article;

(ix) the extent to which an applicant's plan provides for the use of an agreement designed to ensure the use of skilled labor and to promote the prompt, efficient, and safe completion of the project, particularly with regard to the construction, manufacturing, and maintenance of the project;

(x) the extent to which an applicant's plan provides for compensation to its employees and subcontractors consistent with wages outlined under §§ 17–201 through 17–228 of the State Finance and Procurement Article;

(xi) siting and project feasibility;

(xii) the extent to which the proposed offshore wind project would require transmission or distribution infrastructure improvements in the State;

(xiii) estimated ability to assist in meeting the renewable energy portfolio standard under § 7–703 of this subtitle; and

(xiv) any other criteria that the Commission determines to be appropriate.

(2) In evaluating and comparing an applicant's proposed offshore wind project under paragraph (1) of this subsection, the Commission shall contract for the services of independent consultants and experts.

(3) The Commission shall verify that representatives of the United States Department of Defense and the maritime industry have had the opportunity, through the federal leasing process, to express concerns regarding project siting.

(4) (i) In this paragraph, "minority" means an individual who is a member of any of the groups listed in § 14–301(k)(1)(i) of the State Finance and Procurement Article.

(ii) If an applicant is seeking investors in a proposed offshore wind project, it shall take the following steps before the Commission may approve the proposed project:

1. make serious, good–faith efforts to solicit and interview a reasonable number of minority investors;

2. as part of the application, submit a statement to the Commission that lists the names and addresses of all minority investors interviewed and whether or not any of those investors have purchased an equity share in the entity submitting an application;

3. as a condition to the Commission's approval of the offshore wind project, sign a memorandum of understanding with the Commission that requires the applicant to again make serious, good–faith efforts to interview minority investors in any future attempts to raise venture capital or attract new investors to the offshore wind project; and

4. as a condition to the Commission's approval of the offshore wind project, sign a memorandum of understanding with the Commission that requires the applicant to use best efforts and effective outreach to obtain, as a goal, contractors and subcontractors for the project that are minority business enterprises, to the extent practicable, as supported by a disparity study.

(iii) The Governor's Office of Small, Minority, and Women Business Affairs, in consultation with the Office of the Attorney General, shall provide assistance to all potential applicants and potential minority investors to satisfy the requirements under subparagraph (ii)1 and 3 of this paragraph.

(5) As a condition of the Commission's approval of the offshore wind project, the applicant shall sign a memorandum of understanding with the Commission and skilled labor organizations that requires the applicant to follow the portions of the applicant's plan that relate to the criteria set forth in paragraph (1)(viii) and (ix) of this subsection.

(f) (1) (i) In this paragraph, "community benefit agreement" means an agreement applicable to the development of any qualified offshore wind project or offshore wind transmission facility that:

1. promotes increased opportunities for local businesses and small, minority, women–owned, and veteran–owned businesses in the clean energy industry;

2. ensures the timely, safe, and efficient completion of the project by:

A. facilitating a steady supply of highly skilled craft workers who shall be paid not less than the prevailing wage rate determined by the Commissioner of Labor and Industry under Title 17, Subtitle 2 of the State Finance and Procurement Article; and

B. guaranteeing that the construction work performed in connection with the project will be subject to an agreement that:

I. is with one or more labor organizations; and

II. establishes, in accordance with paragraph (3) of this subsection, the terms and conditions of employment at the construction site of the project or a portion of the project;

3. promotes safe completion of the project by ensuring that at least 80% of the craft workers on the project have completed an Occupational Safety and Health Administration 10–hour or 30–hour course;

4. promotes career training opportunities in the manufacturing, maintenance, and construction industries for local residents, veterans, women, and minorities;

5. provides for best efforts and effective outreach to obtain, as a goal, the use of a workforce including minorities, to the extent practicable;

6. reflects a 21st–century labor–management approach by developers and suppliers based on cooperation, harmony, and partnership that proactively seeks to ensure that workers can freely choose to both organize and collectively bargain;

7. provides plans to use domestic iron, steel, and manufactured goods to the greatest extent practicable by disclosing contracted suppliers;

8. uses locally and domestically manufactured construction materials and components; and

9. maximizes the use of skilled local labor, particularly with regard to the construction and manufacturing components of the project, using methods including outreach, hiring, or referral methods that are affiliated with registered apprenticeship programs under Title 11, Subtitle 4 of the Labor and Employment Article.

(ii) If the Commission receives reasonable proposals that demonstrate positive net economic, environmental, and health benefits to the State, based on the criteria specified in subsection (c)(3) of this section, and subject to subparagraph (iii) of this paragraph, the Commission shall approve orders to facilitate the financing of qualified offshore wind projects, including at least 1,200 megawatts of Round 2 offshore wind projects.

(iii) The Commission may not approve an applicant's proposed offshore wind project unless:

1. for a Round 1 offshore wind project application:

A. the projected net rate impact for an average residential customer, based on annual consumption of 12,000 kilowatt–hours, combined with the projected net rate impact of other Round 1 offshore wind projects, does not exceed $1.50 per month in 2012 dollars, over the duration of the proposed OREC pricing schedule;

B. the projected net rate impact for all nonresidential customers considered as a blended average, combined with the projected net rate impact of other Round 1 offshore wind projects, does not exceed 1.5% of nonresidential customers' total annual electric bills, over the duration of the proposed OREC pricing schedule; and

C. the price specified in the proposed OREC pricing schedule does not exceed $190 per megawatt–hour in 2012 dollars; and

2. for a Round 2 offshore wind project application:

A. the projected incremental net rate impact for an average residential customer, based on annual consumption of 12 megawatt–hours, combined with the projected incremental net rate impact of other Round 2 offshore wind projects, does not exceed 88 cents per month in 2018 dollars, over the duration of the proposed OREC pricing schedule;

B. the projected incremental net rate impact for all nonresidential customers considered as a blended average, combined with the projected net rate impact of other Round 2 offshore wind projects, does not exceed

0.9% of nonresidential customers' total annual electric bills during any year of the proposed OREC pricing schedule; and

C. the project is subject to a community benefit agreement.

(2) (i) When calculating the net benefits to the State under paragraph (1)(ii) of this subsection, the Commission shall contract for the services of independent consultants and experts.

(ii) When calculating the projected net average rate impacts for Round 1 offshore wind projects under paragraph (1)(iii)1A and B of this subsection and for Round 2 offshore wind projects under paragraph (1)(iii)2A and B of this subsection, the Commission shall apply the same net OREC cost per megawatt–hour to residential and nonresidential customers.

(3) An agreement required under paragraph (1)(i)2B of this subsection shall:

(i) guarantee against strikes, lockouts, and similar disruptions;

(ii) ensure that all work on the project fully conforms to all relevant State and federal laws, rules, and regulations;

(iii) create mutually binding procedures for resolving labor disputes arising during the term of the project;

(iv) set forth other mechanisms for labor–management cooperation on matters of mutual interest and concern, including productivity, quality of work, safety, and health; and

(v) bind all contractors and subcontractors to the terms of the agreement through the inclusion of appropriate provisions in all relevant solicitation and contract documents.

(g) (1) An order the Commission issues approving a proposed offshore wind project shall:

(i) specify the OREC pricing schedule, which may not authorize an OREC price greater than, for a Round 1 offshore wind project, $190 per megawatt–hour in 2012 dollars;

(ii) specify the duration of the OREC pricing schedule, not to exceed 20 years;

(iii) specify the number of ORECs the offshore wind project may sell each year;

(iv) provide that:

1. a payment may not be made for an OREC until electricity supply is generated by the offshore wind project; and

2. ratepayers, purchasers of ORECs, and the State shall be held harmless for any cost overruns associated with the offshore wind project; and

(v) require that any debt instrument issued in connection with a qualified offshore wind project include language specifying that the debt instrument does not establish a debt, obligation, or liability of the State.

(2) An order approving a proposed offshore wind project vests the owner of the qualified offshore wind project with the right to receive payments for ORECs according to the terms in the order.

(3) On or before March 1 each year, the Commission shall report to the Governor and, in accordance with § 2–1257 of the State Government Article, to the Senate Committee on Education, Energy, and the Environment and the House Economic Matters Committee on:

(i) compliance by applicants with the minority business enterprise participation goals under subsection (e)(4) of this section; and

(ii) with respect to the community benefit agreement under subsection (f)(1) of this section:

1. the availability and use of opportunities for local businesses and small, minority, women–owned, and veteran–owned businesses;

2. the success of efforts to promote career training opportunities in the manufacturing, maintenance, and construction industries for local residents, veterans, women, and minorities; and

3. compliance with the minority workforce goal under subsection (f)(1)(i)5 of this section.

(h) For Round 2 offshore wind project applications, the Commission shall approve OREC orders representing a minimum of 400 megawatts of nameplate capacity proposed during each application period unless:

(1) not enough Round 2 offshore wind project applications are submitted to meet the net benefit test under subsection (c)(3) of this section; or

(2) the cumulative net ratepayer impact exceeds the maximums provided in subsection (f)(1)(ii)2 of this section.

(i) (1) Within 60 days after the Commission approves the application of a proposed offshore wind project, the qualified offshore wind project shall deposit $2,000,000 into the Maryland Offshore Wind Business Development Fund established under § 9–20C–03 of the State Government Article.

(2) Within 1 year after the initial deposit under paragraph (1) of this subsection, the qualified offshore wind project shall deposit an additional $2,000,000 into the Maryland Offshore Wind Business Development Fund.

(3) Within 2 years after the initial deposit under paragraph (1) of this subsection, the qualified offshore wind project shall deposit an additional $2,000,000 into the Maryland Offshore Wind Business Development Fund.

(j) (1) The findings and evidence relied on by the General Assembly for the continuation of the Minority Business Enterprise Program under Title 14, Subtitle 3 of the State Finance and Procurement Article are incorporated in this subsection.

(2) To the extent practicable and authorized by the United States Constitution, approved applicants for a proposed offshore wind project shall comply with the State's Minority Business Enterprise Program.

(3) (i) On or before 6 months after the issuance of an order approving an OREC application, the Governor's Office of Small, Minority, and Women Business Affairs, in consultation with the Office of the Attorney General and an approved applicant, shall establish a clear plan for setting reasonable and appropriate minority business enterprise participation goals and procedures for each phase of the qualified offshore wind project.

(ii) To the extent practicable, the goals and procedures specified in subparagraph (i) of this paragraph shall be based on the requirements of Title 14, Subtitle 3 of the State Finance and Procurement Article and the regulations implementing that subtitle.

(iii) Every 6 months following the issuance of an order approving an OREC application, an approved applicant shall submit a report on its progress establishing and implementing minority business enterprise goals and procedures to the Commission.

(4) On and after July 1, 2026, the provisions of this subsection and any regulations adopted in accordance with this subsection shall be of no effect and may not be enforced.

(k) (1) A developer of a Round 1 offshore wind project or Round 2 offshore wind project approved under this section may apply to the Commission for a full or partial exemption from the requirements in subsection (c)(8)(ii) of this section for any federal Inflation Reduction Act of 2022 grants, rebates, tax credits, or loan guarantees received by the project if at least 15% of the total labor hours of construction, alteration, or repair work for the project, including any construction, alteration, or repair work performed by a contractor or subcontractor, is performed by qualified apprentices consistent with federal law.

(2) A developer seeking an exemption under paragraph (1) of this subsection shall certify that the exemption is required to fulfill the developer's obligations under an approved OREC order.

(3) The Commission shall:

(i) establish an application process for a developer to apply for an exemption under paragraph (1) of this subsection;

(ii) approve, deny, or request additional information regarding an application submitted under this subsection within 60 days after receipt of the application;

(iii) in evaluating an application submitted under this subsection, take into consideration the potential benefits and impacts of approving the application, including:

1. the State's goals for developing offshore wind energy;

2. workforce and supply chain impacts; and

3. the risk that price inflation may have on achieving the State's offshore wind energy goals; and

(iv) keep any proprietary information submitted by an applicant confidential.

(4) If the Commission approves a partial exemption under paragraph (1) of this subsection, the nonexempt value of any federal Inflation Reduction Act of 2022 grants, rebates, tax credits, or loan guarantees received by the project shall be passed along to ratepayers.

(l) (1) In this subsection, "revised Round 2 offshore wind project" means a Round 2 offshore wind project that has filed an application with the Commission for revised project schedules, sizes, or pricing, including OREC pricing, under this subsection.

(2) This subsection applies to Round 1 offshore wind projects and Round 2 offshore wind projects that:

(i) are to be located in a wind energy area authorized by the Bureau of Ocean Energy Management; and

(ii) possess ORECs, or are subject to a Commission order approving an OREC price schedule, as of June 1, 2024.

(3) (i) On June 1, 2024, the Commission shall open a revised Round 2 offshore wind project proceeding that is limited to evaluating revised project schedules, sizes, or pricing, including OREC pricing, for a previously approved Round 2 offshore wind project.

(ii) Any previously approved Round 2 offshore wind project may submit a revised plan for the project by filing an application with the Commission.

(iii) An application for a revised Round 2 offshore wind project shall be limited to addressing revised project schedules, sizes, or pricing, including OREC pricing.

(iv) 1. On receipt of an application for approval of a revised Round 2 offshore wind project, the Commission shall conduct an expedited review of the application.

2. Unless extended by mutual consent of the parties, the Commission shall approve, conditionally approve, or deny an application within 90 days after the application is filed and found by the Commission to be administratively complete.

(v) 1. Except as provided in subsubparagraphs 2 and 3 of this subparagraph, an application for a revised Round 2 offshore wind project shall be subject to all criteria set forth in this section for Round 2 offshore wind projects.

2. An application for a revised Round 2 offshore wind project is not subject to the requirements of subsections (c)(6)(ii) and (i) of this section.

3. If in a revised Round 2 offshore wind project proceeding the Commission reviews multiple reasonable proposals meeting the requirements of this section for Round 2 offshore wind projects, the Commission shall issue orders approving the revised Round 2 offshore wind projects necessary to facilitate as much energy capacity as is consistent with the Round 2 offshore wind project ratepayer protections under this section, including at least 800 megawatts of capacity from revised Round 2 offshore wind projects, if practicable, even if the revised Round 2 offshore wind project applications may result in lower total energy capacity awarded than was previously awarded to the revised Round 2 offshore wind project in its previously approved Round 2 offshore wind project application.

4. When evaluating an application for a revised Round 2 offshore wind project, the Commission shall, to the extent practicable, extend prior or existing proceedings for applicants that have a previously approved order for a Round 2 offshore wind project.

(vi) The Commission may not approve an application for a revised Round 2 offshore wind project unless the application includes commitments for in–State expenditures and investments in a local supply chain that the Commission determines are reasonably related to the size and requirements of the project.

(vii) The Administration shall have access to all confidential information produced by any party relating to a revised Round 2 offshore wind project proceeding, subject to an agreement to protect the confidentiality of the information.

(4) (i) In order to maximize the amount of renewable energy generated by a Round 1 offshore wind project, any Round 1 offshore wind project may seek approval from the Commission to amend its previously approved Round 1 offshore wind project order to:

1. increase the maximum amount of ORECs sold under the previous order, consistent with the Round 1 offshore wind project ratepayer protections under this section; and

2. modify its project schedule.

(ii) The Commission may approve a request for an increased amount of ORECs sold under a previously approved Round 1 offshore wind project order on a showing that:

1. the unit pricing of the additional ORECs does not exceed the pricing under the previously approved Round 1 offshore wind project order; and

2. the Round 1 offshore wind project is in compliance with the ratepayer protection provisions required for Round 1 offshore wind projects, taking into consideration changes in economic conditions since the original Round 1 offshore wind project awards.

(m) (1) The Commission, with the assistance of the Administration, the Department of General Services, and other interested State units shall develop a plan for achieving a total of 8,500 megawatts of offshore wind energy capacity by 2031.

(2) The plan:

(i) shall include a schedule of offshore wind energy procurements and proposed amounts of offshore wind energy for procurement through 2031; and

(ii) may include recommendations on multijurisdictional offshore wind energy procurements and any additional offshore wind energy procurement recommendations.

(3) On or before January 1, 2025, the Commission shall submit a report on the plan to the General Assembly, in accordance with § 2–1257 of the State Government Article.

§7–704.2.

(a) (1) The Commission shall determine the offshore wind energy component of the renewable energy portfolio standard under § 7–703(b)(12) through (25) of this subtitle based on the projected annual creation of ORECs by qualified offshore wind projects.

(2) The Commission shall establish the renewable energy portfolio standard obligation for ORECs on a forward–looking basis that includes a surplus to accommodate reasonable forecasting error in estimating overall electricity sales in the State.

(3) Any positive adjustment to the renewable energy portfolio standard shall be on a forward–looking basis and sufficiently in advance to allow an electric company to reflect OREC costs as a nonbypassable surcharge to distribution customers.

(4) The Commission shall adopt regulations that establish:

(i) the offshore wind purchase obligation sufficiently in advance to allow an electric company to reflect OREC costs as a nonbypassable surcharge paid by all distribution customers of the electric company;

(ii) a mechanism to adjust the renewable energy portfolio standard obligation in a given year to accommodate a shortfall of ORECs in one or more earlier years that is the result of the variation between the quantity of ORECs calculated from the renewable energy portfolio standard obligation and the quantity of ORECs approved in the Commission order for the same years; and

(iii) a nonbypassable surcharge that allows an electric company to recover all costs associated with the purchase of ORECs from all distribution customers of the electric company.

(b) The Commission shall adopt regulations establishing an escrow account under Commission supervision and defining rules that facilitate and ensure the secure and transparent transfer of revenues and ORECs among the parties.

(c) (1) Each electric company shall purchase from the escrow account established under this section the number of ORECs required to satisfy the offshore wind energy component of the renewable energy portfolio standard under § 7–703(b)(12) through (25) of this subtitle.

(2) (i) Subject to any escrow account reserve requirement the Commission establishes, if there are insufficient ORECs available to satisfy the electric companies' OREC obligation, the overpayment shall be distributed to electric companies to be refunded or credited to each distribution customer based on the customer's consumption of electricity supply that is subject to the renewable energy portfolio standard.

(ii) Subject to any escrow account reserve requirement the Commission establishes, the calculation of an electric company's OREC purchase obligation shall be based on final electricity sales data as reported by the PJM Interconnection as measured at the customer meter.

(3) For each OREC for which a qualified offshore wind project receives payment, a qualified offshore wind project shall:

(i) sell all energy, capacity, and ancillary services associated with the creation of ORECs into the markets operated by PJM Interconnection; and

(ii) distribute the proceeds received from the sales to PJM Interconnection markets, under item (i) of this paragraph to electric companies to be refunded or credited to each distribution customer based on the customer's consumption of electricity supply that is subject to the renewable energy portfolio standard.

(4) Notwithstanding § 7–709 of this subtitle, the Commission shall adopt regulations regarding the transfer and expiration of ORECs created by a qualified offshore wind project in excess of the OREC pricing schedule.

(d) (1) If, within 2 years before the expiration of an OREC term, a qualified offshore wind project is anticipated to receive PJM revenues greater than the project operating costs for the 5 years immediately following the expiration of the term of the OREC pricing schedule, the Commission may extend the term of the OREC pricing schedule for an additional 5 years at an OREC price that equals one–half of the sum of:

(i) anticipated market revenues generated by the project during the additional 5–year period; and

(ii) anticipated project operating costs during the additional 5–year period.

(2) If, within 2 years before the expiration of an additional 5–year term extended under paragraph (1) of this subsection, a qualified offshore wind project is anticipated to receive PJM revenues greater than the project operating costs for the 5 years immediately following the expiration of the additional 5–year term, the Commission may extend the term of the OREC pricing schedule for an additional 5 years at an OREC price that equals one–half of the sum of:

(i) anticipated market revenues generated by the project during the additional 5–year period; and

(ii) anticipated project operating costs during the additional 5–year period.

(3) Except as provided in paragraphs (1) and (2) of this subsection, an OREC transaction that takes place during an additional 5–year term is subject to the provisions and regulations applicable to the original OREC order.

(e) A debt, obligation, or liability of a qualified offshore wind project, or an owner or operator of a qualified offshore wind project, may not be considered a debt, obligation, or liability of the State.

(f) On or before July 1, 2014, the Commission shall adopt regulations to carry out this section and § 7–704.1 of this subtitle.

§7–704.3.

(a) The General Assembly finds and declares that it is in the public interest to upgrade and expand the transmission system to accommodate the buildout of at least 8,500 megawatts of offshore wind energy from qualified offshore wind projects serving the State by 2031.

(b) (1) To meet the goals established under § 7–703 of this subtitle and subsection (a) of this section, the Commission, in consultation with the Maryland Energy Administration, shall request that PJM Interconnection conduct an analysis of transmission system upgrade and expansion options that take into consideration both onshore and offshore infrastructure.

(2) The Commission:

(i) shall consult with other states served by PJM Interconnection to evaluate regional transmission cooperation that could help achieve the State's renewable energy and offshore wind energy goals with greater efficiency;

(ii) shall work with PJM Interconnection to ensure that the analysis requested under paragraph (1) of this subsection includes an analysis of solutions that:

1. use an open–access collector transmission system to allow for the interconnection of multiple qualified offshore wind projects at a single substation;

2. avoid a significant outage, or single contingency, of any part of the transmission system;

3. reduce permitting risks, impacts on communities, and unnecessary high costs;

4. leverage existing infrastructure;

5. offer benefits that address additional grid challenges; and

6. address any other issues that the Commission identifies; and

(iii) may consult with owners of transmission facilities in the State to gather relevant technical information.

(3) The Commission may enter into any necessary agreements with PJM Interconnection for transmission planning to:

(i) initiate PJM Interconnection's analysis; or

(ii) assist with the solicitation of proposals for offshore wind transmission projects.

(4) On or before July 1, 2024, the Commission shall submit a status update on the analysis requested under paragraph (1) of this subsection to the General Assembly, in accordance with § 2–1257 of the State Government Article.

(c) (1) On or before July 1, 2025, the Commission shall issue, or request that PJM Interconnection issue, one or more competitive solicitations for proposals for open access offshore wind transmission facilities and complementary onshore transmission upgrades and expansions.

(2) The Commission may issue, or request that PJM Interconnection issue, further solicitations for proposals after this date if determined necessary by the Commission.

(d) In developing criteria for selecting a proposal under this section, the Commission:

(1) shall consider the analysis required under subsection (b) of this section, including a consideration of potential interconnection points;

(2) shall evaluate the potential for cooperating with other states in the PJM region to maximize consumer benefits that will best achieve the State's renewable energy and offshore wind energy goals; and

(3) may consult with the Administration, electric companies, transmission facility owners, and other states or entities designated by those states in developing or coordinating equivalent standards for the approval of transmission projects under this section that will facilitate the integration of multiple offshore wind energy projects and potential multistate offshore wind transmission projects.

(e) (1) The Commission shall include, or work with PJM Interconnection to include, specifications in the solicitation that require proposals to:

(i) allow future transmission lines to connect in a meshed manner and share landing points;

(ii) consider other onshore and offshore clean energy generation and storage facilities;

(iii) incorporate community benefit agreements in accordance with § 7–704.1 of this subtitle;

(iv) address the siting, environmental, and socioeconomic information required to be considered by the Commission under § 7–207 of this title for an application for a certificate of public convenience and necessity, including opportunities for public engagement and comment with units of State and local government and the general public;

(v) demonstrate net benefits to ratepayers in the State when compared with an alternative baseline scenario under which 8,500 megawatts of offshore wind energy capacity is connected to PJM Interconnection independent of an offshore wind transmission project to achieve the goal established under § 7–704.1(a)(1)(i) of this subtitle; and

(vi) ensure a competitive bidding process by redacting proprietary information provided to the Commission or to PJM Interconnection.

(2) The Commission may evaluate, or request that PJM Interconnection assist with the evaluation of, proposals that include:

(i) upgrading the existing transmission grid;

(ii) extending the existing transmission grid onshore and offshore to be closer to offshore wind energy locations;

(iii) interconnecting between offshore substations;

(iv) adding energy storage; and

(v) the use of HVDC converter technology to support potential weaknesses in the transmission grid.

(3) The Commission may select a proposal or proposals that include:

(i) federal funding in the form of a match, grant, loan, or ownership and operation by the United States government;

(ii) cost sharing among states or recovery of transmission costs through federal transmission rates, consistent with the policies and tariffs of the Federal Energy Regulatory Commission;

(iii) a combination of the funding methods outlined in items (i) and (ii) of this paragraph; or

(iv) any other available funding mechanisms.

(4) Each proposal should maximize access to and be consistent with the terms of the U.S. Department of Energy funding programs, including those established:

(i) under the federal Infrastructure Investment and Jobs Act;

(ii) under the federal Inflation Reduction Act of 2022;

(iii) through the U.S. Department of Energy Transmission Facilitation Program; and

(iv) through any loan programs, office programs, or resiliency funding.

(f) The solicitation process shall:

(1) include a prequalification process to ensure the financial and technical competence and capabilities of the entities responding to the solicitation for proposals;

(2) provide for rigorous separation between individuals or firms participating in the review, analysis, and selection of the proposals by or on behalf of the Commission and those participating in the development or management of proposals; and

(3) promote rigorous competition among prequalified entities in the preparation and submission of their proposals.

(g) The Commission may modify, or request that PJM Interconnection modify, a solicitation for proposals at any time in order to satisfy eligibility criteria for U.S. Department of Energy funding programs.

(h) In selecting a proposal under this section, the Commission shall take into consideration the total amount of new transmission infrastructure needed to:

(1) maintain electric system reliability;

(2) achieve the State's offshore wind, renewable energy, and decarbonization goals;

(3) obtain demonstrable benefits to the consumer and environment; and

(4) foster economic development and job creation in the State.

(i) The Commission shall:

(1) request that PJM Interconnection assist with the evaluation of each proposal submitted in accordance with this section; and

(2) after notice, one or more hearings to receive public comment, and an evidentiary hearing, and subject to subsection (j) of this section, on or before December 1, 2027, by order, select a proposal or proposals for development:

(i) using a funding mechanism or combination of funding mechanisms identified in subsection (e)(3) of this section; and

(ii) that demonstrate net benefits to ratepayers in the State when compared with an alternative baseline scenario under subsection (e)(1)(v) of this section.

(j) If the Commission finds that none of the proposals adequately support the goals established under this section or demonstrate net benefits to ratepayers in the State when compared with an alternative baseline scenario under subsection (e)(1)(v) of this section, then the Commission may end the solicitation process without selecting a proposal.

(k) (1) The Commission may, for a proposal selected under subsection (i) of this section:

(i) adopt conditions for the construction and operation of facilities included in the proposal; and

(ii) consider any conditions proposed by the Power Plant Research Program.

(2) The requirement to obtain a certificate of public convenience and necessity under § 7–207 or § 7–208 of this title does not apply to a proposal selected under subsection (i) of this section.

(3) An order selecting a proposal under subsection (i) of this section constitutes authorization by the Commission to construct and operate facilities that would otherwise require a certificate of public convenience and necessity under § 7–207 or § 7–208 of this title.

(l) Except as provided in subsection (k) of this section, a proposal selected under this section is subject to all other relevant requirements for the siting and construction of transmission lines.

(m) Selection of coordinated transmission proposals may not impact the interconnection plans of earlier offshore wind projects, including OCS–A 0490 (US Wind) and OCS–A 0519 (Skipjack), unless the leaseholders for these projects opt to participate in the proposal by notifying the Commission by mail or e–mail before the completion of the analysis of transmission system expansion options under subsection (b) of this section.

(n) If no proposal has been selected under this section by December 1, 2027, the Commission shall submit a statement of determination to the Governor and General Assembly that:

(1) provides a comprehensive explanation of the Commission's determination; and

(2) recommends a path forward to achieve the State's goal under subsection (a) of this section.

(o) After the Commission selects a proposal or proposals, the Commission shall work with the Maryland Energy Administration, transmission developer or developers, transmission facility owners, PJM Interconnection, the Federal Energy Regulatory Commission, and any other states that voluntarily participate, to facilitate the development of the proposal or proposals and the construction of the proposed offshore wind project or projects.

(p) The Commission:

(1) shall carry out the provisions of this section by obtaining information through request, cooperation, subpoena, or any other legal method from transmission owners, PJM Interconnection, or any other entity; and

(2) may retain consultants.

§7–704.4.

(a) (1) In this section the following words have the meanings indicated.

(2) "Community benefit agreement" has the meaning stated in § 7–704.1(e) of this subtitle.

(3) "Social cost of greenhouse gases" means the most recent social cost of greenhouse gases adopted by the U.S. Environmental Protection Agency.

(b) (1) The Department of General Services, in consultation with the Public Service Commission, shall issue a competitive sealed procurement solicitation and may enter into at least one contract for a power purchase agreement to procure offshore wind energy and associated renewable energy credits from one or more qualified offshore wind projects.

(2) Each agreement entered into under paragraph (1) of this subsection shall have a term of not less than 20 years.

(3) When issuing the invitation for bids under this subsection, the Department shall take into consideration:

(i) the social cost of greenhouse gas emissions;

(ii) the State's climate commitments; and

(iii) the State's commitments under § 7–704.1(a) of this subtitle.

(4) The evaluation criteria for bids shall include:

(i) comparing the social cost of greenhouse gas emissions for offshore wind with the social cost of greenhouse gas emissions for nonrenewable power purchased from wholesale electric markets administered by PJM Interconnection; and

(ii) the extent to which an applicant's proposal provides for financial and technical assistance to support monitoring and mitigation of wildlife and habitat impacts associated with the proposed offshore wind project.

(5) Each agreement entered into under paragraph (1) of this subsection shall include:

(i) a community benefit agreement and domestic content preferences; and

(ii) a description of:

1. initial plans for mitigating the impacts of the construction and operation of the proposed offshore wind project on fisheries and the environment; and

2. the extent to which an applicant will provide for financial and technical assistance to support the monitoring and mitigation of wildlife and habitat impacts associated with the project.

(c) (1) The Department of General Services shall identify the amount of energy necessary to meet the State's energy needs.

(2) (i) The State shall use the energy procured under subsection (b) of this section to meet the State's energy needs and retire the associated renewable energy credits to meet its obligations under the renewable energy portfolio standard and Chapter 38 of the Acts of the General Assembly of 2022.

(ii) The State shall be exempted from the renewable energy portfolio standard requirements under § 7–703 of this subtitle if the Department of General Services procures 100% of the State's energy needs from the power purchase agreement required under subsection (b) of this section.

(3) The State shall offer for sale any energy or renewable energy credits remaining after the requirements under paragraph (2) of this subsection have been met on the competitive wholesale power market operated by PJM Interconnection, through bilateral sales to credit–worthy counterparties, or into renewable energy credit markets.

(d) (1) The State shall:

(i) issue a draft solicitation for procurement of offshore wind energy for public comment and review on or before June 1, 2024;

(ii) issue a procurement for offshore wind energy on or before July 31, 2024;

(iii) provide a procurement submission process window of not less than 180 days; and

(iv) award contracts in a timely manner.

(2) (i) Subject to subparagraph (ii) of this paragraph, on or before September 1, 2025, the State may enter into a contract or contracts for the procurement issued under paragraph (1) of this subsection.

(ii) The State may modify the date established in subparagraph (i) of this paragraph if an unforeseen circumstance adversely affects the procurement submission process.

(e) (1) In addition to the solicitation and procurement issued under subsection (d) of this section, the State:

(i) shall issue a draft solicitation for procurement of offshore wind energy for public comment and review on or before September 1, 2025; and

(ii) shall issue a procurement for offshore wind energy on or before December 31, 2025.

(2) Subject to paragraph (3) of this subsection and in addition to any contract entered into under subsection (d) of this section, on or before March 31, 2027, the State may enter into a contract or contracts for the procurement issued under paragraph (1) of this subsection.

(3) The State may modify the date established in paragraph (2) of this subsection if an unforeseen circumstance adversely affects the procurement submission process.

(f) The State shall incorporate in the offshore wind energy procurement contract terms to facilitate low–cost project development and traditional project financing terms, including:

(1) terms that waive the automatic termination clause required under § 13–217 of the State Finance and Procurement Article;

(2) terms that establish remedies to reimburse costs incurred by the contractor directly attributable to the failure of the State to appropriate funds for the contract; and

(3) any other appropriate mechanisms to ensure that offshore wind energy projects that meet the terms of the contract will have certainty of payment through the duration of the contract.

(g) (1) Within 90 days after the operational commencement date of the power purchase agreement, any contractor providing operations and maintenance

services under an agreement with the Department of General Services shall submit to the Department attestation that the contractor has entered into a labor peace agreement with each labor organization that is actively engaged in representing or attempting to represent employees performing operations and maintenance work on the projects that:

(i) prohibits strikes, lockouts, or any other economic interference with the contracted project;

(ii) describes the class or classes of covered employees to whom the labor peace agreement applies;

(iii) describes any class or classes of employees not currently represented by a labor organization;

(iv) describes the classes of covered employees for which labor peace agreement negotiations have not yet concluded; and

(v) for classes of employees that are not covered by a labor peace agreement, provides an attestation that no labor organization has sought to negotiate such an agreement.

(2) A labor peace agreement required under paragraph (1) of this subsection shall be:

(i) valid and enforceable under 29 U.S.C. § 158; and

(ii) maintained as an ongoing material condition of any continuation of payments under any agreement required by this subsection.

(h) Nothing in this section may be construed to prevent the procurement of new offshore wind energy generation in accordance with the current or any future solicitation schedule.

§7–704.5.

(a) On or before December 31, 2024, and on or before each December 31 thereafter, the Commission shall submit a report to the General Assembly, in accordance with § 2–1257 of the State Government Article, on the information collected under the Commission's Supplier Diversity Program regarding offshore wind developers.

(b) The report required under subsection (a) of this section shall include:

(1) efforts to promote opportunities for small, minority, women–owned, and veteran–owned businesses;

(2) information on participating offshore wind developers;

(3) participation of small, minority, women–owned, and veteran–owned businesses in offshore wind projects, including:

(i) the number of small, minority, women–owned, and veteran–owned businesses that receive contracts or subcontracts for offshore wind projects; and

(ii) the percentage of contractors and subcontractors on offshore wind projects that are small, minority, women–owned, or veteran–owned businesses; and

(4) plans to increase future participation of small, minority, women–owned, and veteran–owned businesses in offshore wind projects.

§7–705.

(a) (1) Except as provided in paragraph (2) of this subsection, each electricity supplier shall submit a report to the Commission each year in a form and by a date specified by the Commission that:

(i) 1. demonstrates that the electricity supplier has complied with the applicable renewable energy portfolio standard under § 7–703 of this subtitle and includes the submission of the required amount of renewable energy credits; or

2. demonstrates the amount of electricity sales by which the electricity supplier failed to meet the applicable renewable energy portfolio standard;

(ii) documents the level of participation of minority business enterprises and minorities in the activities that support the creation of renewable energy credits used to satisfy the standard under § 7–703 of this subtitle, including development, installation, and operation of generating facilities that create credits;

(iii) documents the amounts and types of generation associated with renewable energy credits purchased in compliance with § 7–707(c) of this subtitle during the reporting period; and

(iv) documents the amount of renewable energy certificates that do not qualify as renewable energy credits as defined in § 7–701 of this subtitle, including, for each certificate:

1. the energy source associated with the certificate, including its location, when it was constructed, and which electric distribution system received the energy;

2. whether the purchase of the certificate was bundled with a power purchase agreement from the energy source associated with the certificate;

3. whether the certificate was purchased directly from the operator of the energy source or through a third party; and

4. any other information required by the Commission.

(2) Paragraph (1)(iii) and (iv) of this subsection does not apply to:

(i) the Department of General Services' sale of energy under § 7–704.4 of this subtitle; or

(ii) a community choice aggregator under § 7–510.3 of this title.

(b) (1) This subsection does not apply to a shortfall from the required Tier 1 renewable sources that is to be derived from post–2022 geothermal systems.

(2) If an electricity supplier fails to comply with the renewable energy portfolio standard for the applicable year, the electricity supplier shall pay into the Maryland Strategic Energy Investment Fund established under § 9–20B–05 of the State Government Article:

(i) except as provided in item (ii) of this paragraph, a compliance fee of:

1. the following amounts for each kilowatt–hour of shortfall from required Tier 1 renewable sources other than the shortfall from the required Tier 1 renewable sources that is to be derived from solar energy:

A. 4 cents through 2016;

B. 3.75 cents in 2017 and 2018;

C. 3 cents in 2019 through 2023;

D. 2.75 cents in 2024;

E. 2.5 cents in 2025;

F. 2.475 cents in 2026;

G. 2.45 cents in 2027;

H. 2.25 cents in 2028 and 2029; and

I. 2.235 cents in 2030 and later;

2. the following amounts for each kilowatt–hour of shortfall from required Tier 1 renewable sources that is to be derived from solar energy:

A. 45 cents in 2008;

B. 40 cents in 2009 through 2014;

C. 35 cents in 2015 and 2016;

D. 19.5 cents in 2017;

E. 17.5 cents in 2018;

F. 10 cents in 2019;

G. 10 cents in 2020;

H. 8 cents in 2021;

I. 6 cents in 2022;

J. 6 cents in 2023;

K. 6 cents in 2024;

L. 5.5 cents in 2025;

M. 4.5 cents in 2026;

N. 3.5 cents in 2027;

O. 3.25 cents in 2028;

P. 2.5 cents in 2029; and

Q. 2.25 cents in 2030 and later; and

3. 1.5 cents for each kilowatt–hour of shortfall from required Tier 2 renewable sources; or

(ii) for industrial process load:

1. for each kilowatt–hour of shortfall from required Tier 1 renewable sources, a compliance fee of:

A. 0.8 cents in 2006, 2007, and 2008;

B. 0.5 cents in 2009 and 2010;

C. 0.4 cents in 2011 and 2012;

D. 0.3 cents in 2013 and 2014;

E. 0.25 cents in 2015 and 2016; and

F. except as provided in paragraph (3) of this subsection, 0.2 cents in 2017 and later; and

2. nothing for any shortfall from required Tier 2 renewable sources.

(3) For industrial process load, the compliance fee for each kilowatt–hour of shortfall from required Tier 1 renewable sources is nothing for the year following any year during which, after final calculations, the net rate impact per megawatt–hour from Round 1 offshore wind projects exceeded $1.65 in 2012 dollars.

(b–1) If an electricity supplier fails to comply with the renewable energy portfolio standard that is required to be derived from post–2022 geothermal systems for the applicable year, the electricity supplier shall pay into the Maryland Strategic Energy Investment Fund established under § 9–20B–05 of the State Government Article a compliance fee of the following amounts for each kilowatt–hour of shortfall from required post–2022 geothermal systems:

(1) 10 cents in 2023 through 2025;

(2) 9 cents in 2026;

(3) 8 cents in 2027; and

(4) 6.5 cents in 2028 and later.

(c) The Commission may allow an electricity supplier to submit the report required under § 7–505(b)(4) of this title to demonstrate compliance with the renewable energy portfolio standard.

(d) An aggregator or broker who assists an electricity customer in purchasing electricity but who does not supply the electricity or take title to or ownership of the electricity may require the electricity supplier who supplies the electricity to demonstrate compliance with this subtitle.

(e) (1) Notwithstanding the requirements of § 7–703(b) of this subtitle, if the actual or projected dollar–for–dollar cost incurred or to be incurred by an electricity supplier solely for the purchase of Tier 1 renewable energy credits derived from solar energy in any 1 year is greater than or equal to, or is anticipated to be greater than or equal to, 6.0% of the electricity supplier's total annual electricity sales revenues in Maryland, the electricity supplier may request that the Commission:

(i) delay by 1 year each of the scheduled percentages for solar energy under § 7–703(b) of this subtitle that would apply to the electricity supplier; and

(ii) allow the renewable energy portfolio standard for solar energy for that year to continue to apply to the electricity supplier for the following year.

(2) In making its determination under paragraph (1) of this subsection, the Commission shall consider the actual or projected dollar–for–dollar compliance costs of other electricity suppliers.

(3) If an electricity supplier makes a request under paragraph (1) of this subsection based on projected costs, the electricity supplier shall provide verifiable evidence of the projections to the Commission at the time of the request.

(4) If the Commission allows a delay under paragraph (1) of this subsection:

(i) the renewable energy portfolio standard for solar energy applicable to the electricity supplier under the delay continues for each subsequent consecutive year that the actual or projected dollar–for–dollar costs incurred, or to be incurred, by the electricity supplier solely for the purchase of solar renewable energy credits is greater than or equal to, or is anticipated to be greater than or equal to, 6.0% of the electricity supplier's total annual retail electricity sales revenues in Maryland; and

(ii) the renewable energy portfolio standard for solar energy applicable to the electricity supplier under the delay is increased to the next scheduled percentage increase under § 7–703(b) of this subtitle for each year in which the actual or projected dollar–for–dollar costs incurred, or to be incurred, by the electricity supplier solely for the purchase of solar renewable energy credits is less than, or is anticipated to be less than, 6.0% of the electricity supplier's total annual retail electricity sales revenues in Maryland.

§7–706.

(a) (1) Except as provided in paragraph (2) of this subsection, in accordance with the obligation to provide standard offer service through the bid process created under § 7–510 of this title, the Commission shall allow an electricity supplier to recover actual dollar–for–dollar costs incurred, including a compliance fee under § 7–705 of this subtitle, in complying with a State–mandated renewable energy portfolio standard.

(2) In accordance with the Phase II settlement agreement approved by the Commission in Order No. 78710 in Case No. 8908 on September 30, 2003, for any full–service agreement executed before the renewable energy standard under this subtitle applies to an electric company, the electric company and its wholesale electricity suppliers may pass through their commercially reasonable additional costs, if any, associated with complying with the standard, through the end of the year of standard offer service in which the requirement took effect.

(b) An electricity supplier may recover a compliance fee if:

(1) the payment of a compliance fee is the least–cost measure to customers as compared to the purchase of Tier 1 renewable sources to comply with a renewable energy portfolio standard;

(2) there are insufficient Tier 1 renewable sources available for the electricity supplier to comply with a renewable energy portfolio standard; or

(3) a wholesale electricity supplier defaults or otherwise fails to deliver renewable energy credits under a supply contract approved by the Commission.

(c) Any cost recovery under this section:

(1) for all electricity suppliers, may be in the form of a generation surcharge payable by all current electricity supply customers, except as otherwise provided in § 7–704(e) of this subtitle;

(2) shall be disclosed to customers in a manner to be determined by the Commission; and

(3) may not include the costs for a power purchase contract under the federal Public Utility Regulatory Policy Act contemplated in rates or restructuring proceedings.

(d) (1) In accordance with regulations adopted by the Commission in consultation with the Department of Commerce, the Commission may waive the recovery of all or part of the compliance fee assessed on the load of a particular industrial or nonretail commercial customer for a particular year, based on a demonstration by the applicant of an extreme economic hardship that significantly impairs the continued operation of the applicant.

(2) Any compliance fee recovery that is waived under this subsection may not be assessed against other customers.

(3) An electricity supplier is not liable for any compliance fee that is waived under this subsection.

§7–707.

(a) In this section, "green power" means energy sources or renewable energy credits that are marketed as clean, green, eco–friendly, environmentally friendly or responsible, carbon–free, renewable, 100% renewable, 100% wind, 100% hydro, 100% solar, 100% emission–free, or similar claims.

(b) This section does not apply to:

(1) the Department of General Services when the Department of General Services sells energy under § 7–704.4 of this subtitle;

(2) a community choice aggregator under § 7–510.3 of this title; or

(3) an electricity supplier when supplying electricity to commercial retail electric customers.

(c) An electricity supplier that supplies electricity to residential retail electric customers may not market electricity as green power unless:

(1) the percentage of the electricity being offered, or the equivalent number of renewable energy credits associated with the electricity being marketed as green power, that is eligible for inclusion in meeting the renewable energy portfolio standard equals or exceeds the greater of:

(i) 51%; or

(ii) 1% higher than the renewable energy portfolio standard for the year the electricity is provided to the customer;

(2) the Commission approves the price of the electricity being marketed as green power in accordance with subsection (d) of this section; and

(3) the electricity supplier submits an application to the Commission that:

(i) describes the electricity being marketed as green power, including the green power source and percentage of the electricity that is green power;

(ii) describes how the green power complies with State law and regulations; and

(iii) includes any other information the Commission considers necessary.

(d) (1) The price approved by the Commission under subsection (c)(2) of this section shall be determined through:

(i) a proceeding held in accordance with paragraph (2) of this subsection; or

(ii) a proceeding held in accordance with paragraph (3) of this subsection.

(2) (i) Each year the Commission shall hold a proceeding to set a price per megawatt–hour for electricity marketed as green power under this section

that may not be exceeded by an electricity supplier except as provided in paragraph (3) of this subsection.

(ii) Subject to paragraph (4) of this subsection, the price set by the Commission under subparagraph (i) of this paragraph may:

1. exceed the maximum price per megawatt–hour that is authorized under § 7–510(d)(2)(i) of this title; and

2. differ based on the amount and source of the electricity generation.

(iii) During a proceeding held under subparagraph (i) of this paragraph, the Commission:

1. shall consider:

A. the price of the energy purchased, including the total cost of the renewable energy credits;

B. the amount of electricity that is eligible for inclusion in meeting the renewable energy portfolio standard;

C. the state in which the electricity was generated; and

D. applicable market data; and

2. may consider whether the purchase of renewable energy credits was bundled with a power purchase agreement from the energy sources associated with the credit.

(3) (i) On request by an electricity supplier, the Commission shall hold a proceeding to set a price per megawatt–hour for electricity marketed as green power for that electricity supplier.

(ii) Subject to paragraph (4) of this subsection, at a proceeding held under this paragraph the Commission may set a price per megawatt–hour that is higher than the price determined in the proceeding held under paragraph (2) of this subsection for an electricity supplier if:

1. the electricity supplier demonstrates to the Commission's satisfaction, based on an independent third–party audit, that the actual cost to the electricity supplier for the generation or supply of electricity exceeds

that of the price determined through the proceeding held in accordance with paragraph (2) of this subsection;

2. the increased price reflects only the cost of the electricity marketed as green power and is not associated with any of the electricity supplier's other costs; and

3. the electricity supplier demonstrates to the Commission's satisfaction that the electricity supplier has a significant long–term investment in renewable energy that meets the renewable energy portfolio standard under § 7–703 of this subtitle.

(iii) During a proceeding held under this paragraph, the Commission shall consider:

1. whether the purchase of renewable energy credits was bundled with a power purchase agreement from the energy sources associated with the credit;

2. the price of the energy purchased, including the total cost of the renewable energy credits or power purchase agreements;

3. the amount of electricity that is eligible for inclusion in meeting the renewable energy portfolio standard;

4. the state in which the electricity was generated; and

5. applicable market data.

(4) (i) A price approved by the Commission under this subsection may not exceed 150% of the maximum price per megawatt–hour that is authorized under § 7–510(d)(2)(i) of this title unless the Commission determines that the actual cost of the green power exceeds that amount.

(ii) Within 120 days after approving a price for green power that exceeds 150% of the maximum price per megawatt–hour that is authorized under § 7–510(d)(2)(i) of this title, and annually for as long as the price exceeds that amount, the Commission shall submit a report to the General Assembly, in accordance with § 2–1257 of the State Government Article, that:

1. demonstrates that the approved price represents only the actual price of the green power; and

2. includes the Commission's order authorizing the price of the green power.

(iii) If the Commission has approved for 3 consecutive years a price for green power that exceeds 150% of the maximum price per megawatt–hour that is authorized under § 7–510(d)(2)(i) of this title, the Commission shall include in the annual report required under subparagraph (ii) of this paragraph:

1. information on market conditions that necessitate the approved price of the green power that exceeds 150% of the maximum price per megawatt–hour that is authorized under § 7–510(d)(2)(i) of this title; and

2. a recommendation of whether to increase the limitation on the maximum price of green power above which the Commission is required to make a determination under this paragraph.

(5) The Commission:

(i) shall annually review a price approved under paragraph (3) of this subsection; and

(ii) may, on its own initiative, or on petition by the Office of People's Counsel, require an electricity supplier offering green power under a price established under paragraph (3) of this subsection to demonstrate that the price continues to meet the requirements of paragraph (3) of this subsection.

(e) (1) On and after January 1, 2025, an electricity supplier shall purchase renewable energy credits for each year the electricity supplier offers green power for sale to residential retail electric customers.

(2) A renewable energy credit an electricity supplier purchases under paragraph (1) of this subsection shall be retired in a PJM Environmental Information Services, Inc., generation attribute tracking system reserve subaccount accessible by the Commission.

(f) (1) This subsection does not apply to:

(i) the Department of General Services when the Department of General Services sells energy under § 7–704.4 of this subtitle; or

(ii) a community choice aggregator under § 7–510.3 of this title.

(2) An electricity supplier that claims in the electricity supplier's marketing of electricity to residential retail electric customers that the customer will be purchasing green power shall include the following disclosure or a similar disclosure approved by the Commission:

"We deliver energy through the purchase of Renewable Energy Credits (RECs). A REC represents the social good that accompanies 1 megawatt–hour of renewable electricity generation. RECs may be sold separately from renewable electricity itself. Renewable electricity and RECs may be sold to different entities. The purchase of a REC does not indicate that renewable electricity itself has been purchased by the entity that purchased the REC.".

(g) In addition to the disclosure required under subsection (f) of this section, the Commission shall adopt regulations that require an electricity supplier, other than the Department of General Services when the Department of General Services sells energy under § 7–704.4 of this subtitle or a community choice aggregator under § 7–510.3 of this title, that offers green power for sale to residential retail customers to include in the electricity supplier's marketing materials a disclosure, written in plain language, that explains:

(1) what the customer will actually be paying for when the customer purchases green power from the electricity supplier;

(2) how the electricity that the customer has purchased is generated;

(3) how the green power will benefit the environment;

(4) the percentage of electricity that would be provided by the electricity supplier that is eligible for inclusion in meeting the renewable energy portfolio standard; and

(5) the state in which the electricity was generated.

(h) The Commission, in its discretion, may determine whether an electricity supplier is marketing electricity in accordance with this section.

§7–708.

(a) (1) The Commission shall establish and maintain a market-based renewable electricity trading system to facilitate the creation and transfer of renewable energy credits.

(2) To the extent practicable, the trading system shall be consistent with and operate in conjunction with the trading system developed by PJM Interconnection, Inc., if available.

(3) The Commission may contract with a for-profit or a nonprofit entity to assist in the administration of the electricity trading system required under paragraph (1) of this subsection.

(b) (1) The system shall include a registry of pertinent information regarding all:

(i) available renewable energy credits; and

(ii) renewable energy credit transactions among electricity suppliers in the State, including:

1. the creation and application of renewable energy credits;

2. the number of renewable energy credits sold or transferred; and

3. the price paid for the sale or transfer of renewable energy credits.

(2) (i) The registry shall provide current information to electricity suppliers and the public on the status of renewable energy credits created, sold, or transferred in the State.

(ii) Registry information shall be available by computer network access through the Internet.

§7–709.

(a) An electricity supplier may use accumulated renewable energy credits to meet the renewable energy portfolio standard, including credits created by a renewable on–site generator.

(b) A renewable energy credit may be sold or otherwise transferred.

(c) (1) (i) If an electricity supplier purchases solar renewable energy credits directly from a renewable on–site generator with a capacity that exceeds 10 kilowatts to meet the solar component of the Tier 1 renewable energy portfolio

standard, the duration of the contract term for the solar renewable energy credits may not be less than 15 years.

(ii) The minimum required term under subparagraph (i) of this paragraph does not affect the ability of the parties to negotiate a price for a solar renewable energy credit that varies over time in any manner.

(2) (i) An electricity supplier that purchases solar renewable energy credits from a renewable on–site generator with a capacity not exceeding 10 kilowatts shall purchase the credits with a single initial payment representing the full estimated production of the system for the life of the contract.

(ii) The Commission shall:

1. develop a method for estimating annual production from the type of system described in subparagraph (i) of this paragraph and allocating the credits to the electricity supplier in a manner that is consistent with the duration of the contract; and

2. determine the rate for a payment made to a renewable on–site generator under subparagraph (i) of this paragraph.

(d) (1) Except as authorized under paragraph (2) of this subsection, a renewable energy credit shall exist for 5 years from the date created.

(2) A renewable energy credit may be diminished or extinguished before the expiration of 5 years by:

(i) the electricity supplier that received the credit;

(ii) a nonaffiliated entity of the electricity supplier:

1. that purchased the credit from the electricity supplier receiving the credit; or

2. to whom the electricity supplier otherwise transferred the credit; or

(iii) demonstrated noncompliance by the generating facility with the requirements of § 7–704(f) of this subtitle.

(e) Notwithstanding subsection (d)(2)(iii) of this section, and only if the demonstrated noncompliance does not result in environmental degradation, an electricity supplier that reasonably includes in its annual report under § 7–705 of this

subtitle a renewable energy credit that is extinguished for noncompliance with § 7–704(f)(1) or (2) of this subtitle:

(1) may continue to rely on that credit for that year; but

(2) for later years must:

(i) demonstrate a return to compliance of the generating facility under § 7–704(f) of this subtitle; or

(ii) replace the credit with a renewable energy credit from another source.

(f) The Commission by regulation shall establish requirements for documentation and verification of renewable energy credits by licensed electricity suppliers and other generators that create and receive credits for compliance with the standards for Tier 1 renewable sources and Tier 2 renewable sources.

§7–709.1.

(a) (1) In this section the following words have the meanings indicated.

(2) "Brownfield" has the meaning stated in § 7–207 of this title.

(3) "Certified SREC" means a solar renewable energy credit generated by a certified system.

(4) "Certified system" means a solar energy generating system certified by the Commission under the Program to generate certified SRECs with the compliance value specified in subsection (c) of this section.

(5) "Program" means the Small Solar Energy Generating System Incentive Program.

(b) The Commission shall establish a Small Solar Energy Generating System Incentive Program.

(c) (1) Under the Program, a certified system shall generate certified SRECs.

(2) Except as provided in paragraph (3) of this subsection, the provisions of this subtitle relating to renewable energy credits shall apply to certified SRECs.

(3) A certified SREC shall have a compliance value of 150% for electricity suppliers to put toward meeting the renewable energy portfolio standard for energy derived from solar energy under § 7–703 of this subtitle.

(d) To be eligible for certification under the Program, a solar energy generating system shall:

(1) be located in the State;

(2) be eligible for inclusion in meeting the renewable energy portfolio standard;

(3) have a generating capacity of 5 megawatts or less, as measured by the alternating current rating of the system's inverter;

(4) be placed in service between July 1, 2024, and January 1, 2028, inclusive; and

(5) be one of the following types of systems:

(i) a system with a generating capacity of 20 kilowatts or less, as measured by the alternating current rating of the system's inverter;

(ii) a system with a generating capacity of 2 megawatts or less, as measured by the alternating current rating of the system's inverter, if the system is used for aggregate net metering; or

(iii) a system with a generating capacity of between 20 kilowatts and 5 megawatts, as measured by the alternating current rating of the system's inverter, if the system is located on or over:

1. a rooftop;

2. a parking canopy;

3. a brownfield; or

4. a water retention pond or quarry currently or previously designated for industrial use.

(e) Except as provided in subsection (f) of this section, the Commission, at the time of certifying a solar energy generating system as a Tier 1 renewable source, shall certify the system as eligible to generate certified SRECs in accordance with

subsection (c) of this section if the applicant submits with its application for certification as a Tier 1 renewable source:

(1) a form requesting to be certified to receive certified SRECs with the value specified in subsection (c) of this section;

(2) a copy of the interconnection agreement between the applicant and the applicant's electric company indicating that the size of the system is eligible;

(3) if seeking certification as a system located on or over an area specified under subsection (d)(5)(iii) of this section, a copy of the final approval of the local building permit;

(4) if seeking certification as a system located on a brownfield, documentation demonstrating that the system is located on a brownfield;

(5) if seeking certification based on aggregated net metering, a copy of the aggregated net energy metering rider submitted with the interconnection agreement; and

(6) any other information required by the Commission.

(f) (1) The owner of a solar energy generating system may apply to the Commission to be certified under the Program if the system meets the requirements under subsection (d) of this section.

(2) The owner of a solar energy generating system that is placed in service between July 1, 2024, and January 1, 2025, may apply to the Commission:

(i) before January 1, 2025, for certification as a Tier 1 renewable source; and

(ii) on or after January 1, 2025, for certification under the Program.

(g) The total amount of in–State generating capacity for certified systems, as measured by the alternating current rating of the systems' inverters, under the Program may not exceed:

(1) 300 megawatts for systems with a generating capacity of less than 20 kilowatts, as measured by the alternating current rating of the system's inverter; and

(2) 270 megawatts for systems with a generating capacity of between 20 kilowatts and 5 megawatts, as measured by the alternating current rating of the system's inverter.

(h) (1) At the time a solar energy generating system is certified as a Tier 1 renewable source, the owner of the system shall pay to the Commission a one–time fee of:

(i) up to $50 for each system with a generating capacity of less than 20 kilowatts, as measured by the alternating current rating of the system's inverter; and

(ii) up to $200 for each system with a generating capacity of more than 20 kilowatts, as measured by the alternating current rating of the system's inverter.

(2) The Commission shall use the fees collected under paragraph (1) of this subsection to pay for costs associated with administering the Program.

(i) (1) A certified system shall continue to be eligible to generate certified SRECs for 15 years after the date of certification by the Commission, or January 1, 2025, whichever is later, after which the system shall be eligible to generate noncertified solar renewable energy credits as long as the system meets the requirements as a Tier 1 renewable source under this subtitle.

(2) The Commission shall:

(i) on or before January 1, 2025, begin determining eligibility of solar energy generating systems to be certified under the Program; and

(ii) on or before July 1, 2026, implement a revised system to review and ensure compliance with the renewable energy portfolio standard.

(3) An electricity supplier may apply the certified SRECs generated in accordance with this section toward the renewable energy portfolio standard starting with the 2025 compliance year.

(4) Notwithstanding any other law, the Commission shall allow electricity suppliers to demonstrate compliance with the renewable energy portfolio standard for the 2025 compliance year by submitting information between July 1, 2026, and December 31, 2026, using the revised system developed in accordance with paragraph (2)(ii) of this subsection.

§7–710.

The Commission may impose an administrative fee on a renewable energy credit transaction, but the amount of the fee may not exceed the Commission's actual direct cost of processing the transaction.

§7–711.

(a) The Commission has the same power and authority with respect to an electricity supplier under this subtitle that the Commission has with respect to any public service company under this division for the purposes of investigating and examining the electricity supplier to determine compliance with this subtitle and with other applicable law.

(b) (1) Beginning January 1, 2008, the Commission shall designate an individual to be responsible for the oversight of compliance with the requirements of Tier 1 renewable sources that are to be derived from solar energy.

(2) The individual designated under paragraph (1) of this subsection shall:

(i) develop the program for the requirements for Tier 1 renewable sources derived from solar energy;

(ii) provide education and outreach to promote the use of solar energy; and

(iii) make policy recommendations to the Commission regarding improving the State's use of solar energy, including the development of clear, simple, and straightforward forms, requirements, and procedures to facilitate participation by homeowners and small businesses in deployment of solar generation in the State.

§7–712.

Subject to § 2–1257 of the State Government Article, on or before December 1 of each year the Commission shall report to the General Assembly on the status of implementation of this subtitle, including:

(1) the availability of Tier 1 renewable sources;

(2) projects supported by the Fund;

(3) information regarding the status of the Small Solar Energy Generating System Incentive Program established under § 7–709.1 of this subtitle,

including the total amount of generating capacity of the systems certified under the Program; and

(4) other pertinent information.

§7–713.

The Commission shall adopt regulations to implement the provisions of this subtitle.

§7–714.

The developer of a solar energy generating system that has a generating capacity over 1 megawatt, as measured by the alternating current rating of the system's inverter, shall ensure that workers are paid not less than the prevailing wage rate determined under Title 17, Subtitle 2 of the State Finance and Procurement Article.

§7–801.

It is the goal of the State that the electric system support, in a cost–effective manner, the State's policy goals with regard to:

(1) greenhouse gas reduction;

(2) renewable energy;

(3) decreasing dependence on electricity imported from other states; and

(4) achieving energy system resiliency, efficiency, and reliability.

§7–802.

On or before December 1, 2024, and each December 1 thereafter, the Commission shall submit a report, in accordance with § 2–1257 of the State Government Article, to the General Assembly with information regarding the current status of projects designed to promote the goals identified in this section, including information on planning processes and implementation that promote, as specific goals, the following:

(1) measures to decrease greenhouse gas emissions incident to electric distribution, including high levels of distributed energy resources and electric vehicles;

(2) giving priority to vulnerable communities in the development of distributed energy resources and electric vehicle infrastructure;

(3) energy efficiency;

(4) meeting anticipated increases in load;

(5) incorporation of energy storage technology as appropriate and prudent to:

(i) support efficiency and reliability of the electric system; and

(ii) provide additional capacity to accommodate increased distributed renewable electricity generation in connection with electric transmission and distribution system modernization;

(6) efficient management of load variability;

(7) electric system resiliency and reliability;

(8) bidirectional power flows;

(9) demand response and other nonwire and noncapital alternatives;

(10) increased use of distributed energy resources, including electric vehicles;

(11) transparent stakeholder participation in ongoing electric system planning processes; and

(12) any other issues the Commission considers appropriate.

§7–803.

(a) The General Assembly strongly encourages the electric companies of the State to pursue diligently federal funds to meet the State's policy goals for the electric system, including funds made available under the federal Infrastructure Investment and Jobs Act or the federal Inflation Reduction Act.

(b) The Commission and the Maryland Energy Administration shall provide assistance and support to electric companies for applying for and obtaining access to federal and other available funds to meet the State's policy goals.

(c) The Maryland Energy Administration shall identify funding sources that may be available to electric companies to implement the State's policy goals under § 7–802 of this subtitle, including funding for:

(1) increasing the efficiency of electric systems, including through installation and integration of energy storage devices and operational changes and upgrades;

(2) grid–hardening activities to reduce the occurrence of or consequences of events that disrupt operations of the electric system due to extreme weather or natural disasters;

(3) other electric system enhancement activities available for funding under the federal Infrastructure Investment and Jobs Act or the federal Inflation Reduction Act; and

(4) other specific activities that the Commission identifies.

(d) As needed to promote the State's policy goals under § 7–802 of this subtitle, the Commission:

(1) shall require each electric company to report at least quarterly to the Commission and the Maryland Energy Administration on:

(i) the funding for which the electric company has applied;

(ii) the purposes for which the funding is intended to be used;

(iii) the status of the funding applications; and

(iv) conditions that must be met to obtain the funding; and

(2) shall adopt regulations or issue orders:

(i) that require electric companies to apply for federal and other available funds in a timely manner; and

(ii) in order to ensure that least–cost debt is used.

§7–804.

(a) On or before December 31, 2025, the Commission shall adopt regulations or issue orders to:

(1) implement specific policies for electric system planning;

(2) require consideration of investment in, or procurement of, cost–effective demand–side methods and technology to improve reliability and efficiency, including virtual power plants; and

(3) implement specific policies for improvements in order to promote the State's policy goals under § 7–802 of this subtitle.

(b) The regulations adopted and orders issued under subsection (a) of this section shall:

(1) be developed with consideration given to the inherent differences, individual circumstances, and available resources among investor–owned electric companies, electric cooperatives, and municipal electric utilities; and

(2) if determined necessary by the Commission, establish separate requirements for investor–owned electric companies, electric cooperatives, and municipal electric utilities.

§7–901.

(a) In this subtitle the following words have the meanings indicated.

(b) "EV charging network" means the total number of EV charging stations an electric company installs or maintains for public use.

(c) "EV charging station" means a connected point in an electrical wiring installation:

(1) at which current is taken to charge a battery or any other energy storage device in an electric vehicle; and

(2) capable of providing Level 2 charging.

(d) "EV Pilot Program" means the EV Pilot Program established by Public Service Commission Order No. 88997 and administered by the Commission.

(e) "Level 2 charging" means the ability to charge a battery or other energy storage device in an electric vehicle in a manner that:

(1) is capable of using an alternating current electrical service with a minimum of 208 volts; and

(2) meets applicable industry safety standards.

(f) "Underserved community" means any census tract in which, according to the most recent U.S. Census Bureau Survey:

(1) at least 25% of the residents qualify as low–income;

(2) at least 50% of the residents identify as nonwhite; or

(3) at least 15% of the residents have limited English proficiency.

(g) "Uptime" means the availability and consistency of an EV charging station in an EV charging network to successfully dispense electricity as designed, measured as a percentage of both hours and days of a calendar year.

§7–902.

This subtitle applies to an electric company that:

(1) installs or maintains an EV charging station for public use; or

(2) participates in the EV Pilot Program.

§7–903.

(a) Subject to subsection (b) of this section, the Commission shall, by order or regulation and subject to reasonable cost limitations balanced with the public interest:

(1) expand the EV Pilot Program to allow participating electric companies to install EV charging stations in new and existing multifamily dwellings in underserved communities; and

(2) terminate the EV Pilot Program expansion required under item (1) of this section on December 31, 2025.

(b) The termination of the EV Pilot Program expansion required under subsection (a) of this section may not be construed to:

(1) terminate an electric company's authority to operate EV charging stations under a program approved by the Commission on or before March 1, 2023;

(2) limit an electric company's efforts to operate and maintain EV charging stations installed under the EV Pilot Program; or

(3) impact the cost recovery by an investor–owned electric company for the lifetime of an EV charging station installed under the EV Pilot Program.

§7–904.

(a) (1) Except as provided in paragraph (2) of this subsection, an electric company operating an EV charging network shall maintain uptime standards for each EV charging station in accordance with:

(i) federal National Electric Vehicle Infrastructure standards and requirements; or

(ii) alternative uptime standards and requirements approved by the Commission.

(2) The uptime requirement under paragraph (1) of this subsection does not include any time in which an EV charging station is unavailable due to:

(i) force majeure, as determined by the Commission; or

(ii) vandalism.

(b) An electric company shall calculate EV charging station uptime on a quarterly basis for the immediately preceding 12 months.

(c) (1) An electric company that operates an EV charging station for public use shall be subject to the same reporting requirements as an electric company that receives federal funding related to electric vehicle charging infrastructure.

(2) An electric company that operates an EV charging network or EV charging station shall submit the following EV charging station data to the Commission on a quarterly basis:

(i) the location of the EV charging station; and

(ii) for each EV charging station:

1. charging session start and end times;

2. the total amount of electricity, in kilowatt–hours, dispensed to an electric vehicle for each charging session;

3. the peak amount of electricity, in kilowatts, dispensed to an electric vehicle for each charging session;

4. uptime for each of the previous 3 months;

5. the cost of electricity needed to operate each EV charging station for each of the previous 3 months;

6. maintenance and repair costs for each of the previous 3 months;

7. the cost of acquiring real property for use as an EV charging station;

8. the cost of acquiring and installing electric vehicle charging equipment;

9. the cost of acquiring and installing distributed energy resources;

10. the cost to the electric company of connecting to the electric grid and any applicable connection upgrades;

11. the capacity, in kilowatts or kilowatt–hours as appropriate, of each type of distributed energy resource used by an EV charging station;

12. the number of EV charging stations that failed to meet the uptime requirements under subsection (a) of this section;

13. when applicable, the reason an EV charging station failed to meet the uptime requirements under subsection (a) of this section; and

14. when applicable, the date an EV charging station was repaired.

§7–905.

(a) An electric company participating in the EV Pilot Program shall maintain an adequate number of staff to monitor, assess, and, when necessary, repair the EV charging stations operated by the electric company.

(b) The Commission may, in accordance with § 13–201 of this article, impose a penalty on or take additional remedial action against an electric company that fails to satisfy the uptime requirements under § 7–904 of this subtitle.

§7–1001.

(a) In this subtitle the following words have the meanings indicated.

(b) "Beneficial electrification" means replacing direct fossil fuel use with electricity.

(c) "Bidirectional electric vehicle" means an electric vehicle that is capable of both receiving and discharging electricity.

(d) "Distributed energy resource" means an energy resource located on a customer's premises that:

(1) produces or stores electricity; or

(2) modifies the timing or amount of the customer's electricity consumption.

(e) (1) "Electric distribution system support services" means the dispatch and control of a distributed energy resource to provide services that contribute to the efficient and reliable operation of the electric distribution system by:

(i) an electric company; or

(ii) an aggregator acting at the direction of an electric company.

(2) "Electric distribution system support services" includes:

(i) local or system peak demand reduction;

(ii) demand response;

(iii) the avoidance or deferral of a transmission or distribution upgrade or capacity expansion; and

(iv) facilitating hosting capacity to accommodate additional distributed energy resources.

(f) "Eligible customer–generator" has the meaning stated in § 7–306 of this title.

(g) "Net energy metering" has the meaning stated in § 7–306 of this title.

(h) "Net excess generation" has the meaning stated in § 7–306 of this title.

(i) (1) "Renewable on–site generating system" means an energy system located on a customer's premises that:

(i) generates or stores electricity from a Tier 1 renewable source or a Tier 2 renewable source that does not release greenhouse gases;

(ii) is capable of providing electricity to:

1. a home, business, or other structure serviced by an electric company; and

2. the electric distribution system;

(iii) is paired with an energy storage device that is configured to charge from:

1. the renewable source; and

2. the electric distribution system unless, for the purpose of eligibility for net energy metering, the device is required to be charged only from the renewable source; and

(iv) is interconnected and operates in parallel with an electric company's transmission and distribution facilities.

(2) "Renewable on–site generating system" may include bidirectional electric vehicle service equipment located on a customer's premises.

(j) "Tier 1 renewable source" has the meaning stated in § 7–701 of this title.

(k) "Tier 2 renewable source" has the meaning stated in § 7–701 of this title.

§7–1002.

The General Assembly finds and declares that:

(1) well–designed time–of–use pricing of electricity can help mitigate the impacts of electrification on the electric distribution system, reduce greenhouse gas emissions during peak hours, and encourage customer adoption of beneficial electrification measures through off–peak cost savings;

(2) widespread beneficial electrification will increase demand on the electric distribution system and potentially require significant system upgrades if consumers adopting beneficial electrification measures do not engage in a form of load management to mitigate the need for system upgrades and reduce the greenhouse gas intensities associated with generation emissions during peak hours;

(3) pairing the adoption of renewable on–site generating systems with beneficial electrification measures may:

(i) further reduce the State's greenhouse gas emissions;

(ii) provide on–site resilience to consumers; and

(iii) facilitate load flexibility to mitigate impacts on the electric distribution system from load growth due to beneficial electrification; and

(4) it is reasonable to provide additional incentives and protections to low– and moderate–income households:

(i) to ensure access to the benefits of electrification and on–site energy systems; and

(ii) to protect those households from negative bill impacts during a transition to time–of–use rates.

§7–1003.

(a) (1) On or before July 1, 2025, each investor–owned electric company shall file with the Commission one or more time–of–use tariffs for appropriate customer classes, to be made available to customers on an opt–in basis.

(2) Each time–of–use tariff shall establish a sufficient price discount for off–peak hours compared to peak hours, as determined by the market or an investor–owned electric company's cost of service, to encourage customers to adjust electricity use to off–peak hours.

(b) (1) (i) An investor–owned electric company shall propose with each tariff or tariffs required under subsection (a) of this section a reasonable enrollment target to try to achieve by January 1, 2028.

(ii) The investor–owned electric company shall attempt to achieve the enrollment target through a combination of marketing, customer education, and other means to communicate the benefits and risks of time–of–use rates.

(2) (i) The Commission may require an investor–owned electric company to automatically enroll in a time–of–use tariff customers that receive an incentive from the investor–owned electric company as part of a beneficial electrification program.

(ii) The Commission shall require an investor–owned electric company to provide to customers that are automatically enrolled in a time–of–use tariff in accordance with subparagraph (i) of this paragraph notice and an opportunity to opt out of the time–of–use tariff.

(c) On or before July 1, 2026, each investor–owned electric company shall submit a report to the Commission evaluating:

(1) the potential to avoid or defer electric distribution system capital projects through the use of time–of–use rates, demand–response and demand–side programs, and renewable on–site generating systems; and

(2) the merits and feasibility of transitioning all customers to a time–of–use tariff on an opt–out basis.

(d) In accordance with § 2–1257 of the State Government Article, on or before December 31, 2027, the Commission shall submit a report to the General Assembly on:

(1) the impacts of opt–in time–of–use tariffs on the electric distribution system;

(2) the timeline, feasibility, and merits of transitioning all customers to a time–of–use tariff on an opt–out basis; and

(3) whether a full transition to time–of–use rates is justified.

(e) An investor–owned electric company may recover all reasonable and prudent costs, including marketing costs, to achieve its proposed enrollment targets and execute its responsibilities in accordance with this section.

(f) For good cause shown, the Commission may delay for a reasonable period of time the deadline for an investor–owned electric company to comply with the provisions of this section.

(g) (1) A municipal electric utility or electric cooperative may file with the Commission one or more time–of–use tariffs in the same manner as an investor–owned electric company under this section.

(2) If a municipal electric utility or electric cooperative elects to file with the Commission a time–of–use tariff under this section, the provisions of this section that apply to an investor–owned electric company shall also apply to the municipal electric utility or electric cooperative.

§7–1004.

(a) On or before May 1, 2025, the Commission shall adopt regulations to:

(1) establish expedited processes for interconnecting the following systems to the electric distribution system:

(i) bidirectional electric vehicle systems capable of providing electricity to the electric distribution system; and

(ii) bidirectional electric vehicle systems that do not provide electricity to the electric distribution system but do provide electricity to a home, business, or other structure serviced by an investor–owned electric company; and

(2) provide investor–owned electric companies with adequate time to ensure electric distribution system reliability in advance of the interconnections described in item (1) of this subsection.

(b) An investor–owned electric company:

(1) may require a customer to provide notice to the investor–owned electric company if the customer installs a bidirectional electric vehicle system described in subsection (a)(1)(ii) of this section; and

(2) shall require a customer to apply for interconnection if the customer configures a bidirectional electric vehicle system to provide electricity to the electric distribution system.

(c) A municipal electric utility or an electric cooperative may comply with the requirements of subsection (b) of this section in the same manner as an investor–owned electric company.

§7–1005.

(a) The Commission shall develop a program for each investor–owned electric company to establish a pilot program or temporary tariff to compensate owners and aggregators of distributed energy resources for electric distribution system support services through an incentive mechanism determined by the Commission.

(b) (1) (i) On or before July 1, 2025, each investor–owned electric company shall submit to the Commission for approval a pilot program or temporary tariff for electric distribution system support services that provides reasonable compensation through a mechanism determined by the Commission.

(ii) The pilot program or temporary tariff submitted under subparagraph (i) of this paragraph shall provide that electric distribution system support services to on–site energy storage devices be used for system peak reduction.

(2) (i) A municipal electric utility or an electric cooperative may establish a pilot program, temporary tariff, or performance mechanism under this section.

(ii) If a municipal electric utility or electric cooperative establishes a pilot program, temporary tariff, or performance mechanism under this section, the provisions of this section and §§ 7–1006 and 7–1007 of this subtitle that apply to an investor–owned electric company shall also apply to the municipal electric utility or electric cooperative.

(c) (1) Notwithstanding any provision of this subtitle, an investor–owned electric company may propose and submit to the Commission a performance mechanism to cover the cost of using distributed energy resources or an aggregator of distributed energy resources under this subtitle.

(2) The Commission may approve a performance mechanism submitted under paragraph (1) of this subsection if the Commission determines that the performance mechanism is in the public interest.

(d) (1) The Commission shall approve, deny, or approve with amendments a pilot program or temporary tariff submitted under this section for each investor–owned electric company in an expedited manner.

(2) If the Commission determines that transitioning a pilot program or temporary tariff to a permanent program or tariff is in the public interest, the Commission may establish a process for an investor–owned electric company to

transition a pilot program or temporary tariff to a permanent program or tariff for electric distribution system support services.

(3) If the Commission determines the transition to a permanent program or tariff is in the public interest, each customer participating in a pilot program or temporary tariff approved under paragraph (1) of this subsection may be transitioned to a permanent program or tariff for electric distribution system support services when the program or tariff is approved by the Commission.

(e) (1) The Commission may allow the energy generated by a renewable on–site generating system that provides electric distribution system support service under a pilot program or temporary tariff approved under subsection (d)(1) of this section to count towards the investor–owned electric company's greenhouse emissions reduction goals under § 7–211 of this title.

(2) (i) Subject to subparagraph (ii) of this paragraph, the cumulative energy storage capacity of any energy storage devices installed on a customer's property in accordance with this subtitle shall count towards the targets established under § 7–216.1 of this title.

(ii) Subparagraph (i) of this paragraph does not include the energy storage capacity of:

1. electric vehicles that are part of a renewable on–site generating system; or

2. mobile energy storage devices.

(f) The cumulative nameplate capacity of renewable on–site generating systems participating in a pilot program or temporary tariff approved under this section may not exceed 2% of the investor–owned electric company's highest recorded coincident peak demand.

§7–1006.

(a) (1) The Commission may approve or require an investor–owned electric company to offer upfront incentives or rebates to customers to acquire and install renewable on–site generating systems if the customer:

(i) enrolls in a pilot program or temporary tariff established under § 7–1005 of this subtitle; and

(ii) allows the system to be used for electric distribution system support services for a period of not less than 5 years.

(2) The Commission may:

(i) authorize or require an investor–owned electric company to provide an additional incentive or rebate for low– or moderate–income customers who apply for an incentive or rebate under this section; and

(ii) require an investor–owned electric company to prioritize the offer of incentives or rebates under this section to low– or moderate–income customers.

(b) In determining whether to require an investor–owned electric company to offer an incentive or rebate under this section, the Commission shall consider:

(1) the benefit of reducing the operation of peak generating facilities in overburdened and underserved communities;

(2) the benefit of resiliency and service outage avoidance for customers with on–site generating systems; and

(3) the potential for investor–owned electric companies to reduce expenses relating to electric distribution system infrastructure by leveraging customers' on–site generating systems.

(c) The Commission shall consider establishing a limit on the amount of incentives or rebates issued in a manner that achieves deployment goals while mitigating potential customer impacts.

(d) The Commission shall consult with the Maryland Energy Administration, when approving or requiring an incentive or rebate under this section, to ensure that the incentive or rebate is designed to supplement, to the greatest extent possible, other available State and federal incentives for customer adoption of renewable on–site generating systems.

§7–1007.

(a) An investor–owned electric company may recover all reasonable costs incurred in:

(1) participating in and administering a program under § 7–1005 of this subtitle; and

(2) offering an upfront incentive or rebate under § 7–1006 of this subtitle.

(b) To the extent feasible, the costs listed in subsection (a) of this section shall be recovered by the investor–owned electric company within the calendar year in which those costs were incurred.

(c) Notwithstanding any provision of this subtitle, an investor–owned electric company may pursue and use a performance incentive mechanism to cover the cost of using distributed energy resources or an aggregator of distributed resources under this subtitle.

§7–1101.

(a) In this subtitle the following words have the meanings indicated.

(b) "Administration" means the Maryland Energy Administration.

(c) "Behind–the–meter project" means a project that involves a physical, operational, or behavioral modification on the customer side of a utility meter, including replacement of appliances, retrofits, and panel upgrades.

(d) "Community benefit agreement" means an agreement applicable to the construction of any thermal energy network system and any accompanying residential electrification that:

(1) promotes increased opportunities for local businesses and small, minority, women–owned, and veteran–owned businesses in the clean energy industry;

(2) ensures the timely, safe, and efficient completion of the project by:

(i) facilitating a steady supply of highly skilled craft workers who shall be paid not less than the prevailing wage rate determined by the Commissioner of Labor and Industry under Title 17, Subtitle 2 of the State Finance and Procurement Article; and

(ii) guaranteeing that the construction work performed in connection with the project will be subject to an agreement that:

1. establishes the terms and conditions of employment at the construction site of the project or a portion of the project;

2. guarantees against strikes, lockouts, and similar disruptions;

3. ensures that all work on the project fully conforms to all relevant State and federal laws, rules, and regulations, including all required training for employees;

4. creates mutually binding procedures for resolving labor disputes arising during the term of the project;

5. sets forth other mechanisms for labor–management cooperation on matters of mutual interest and concern, including productivity, quality of work, safety, and health; and

6. binds all contractors and subcontractors to the terms of the agreement through the inclusion of appropriate provisions in all relevant solicitation and contract documents;

(3) promotes safe completion of the project by ensuring that at least 80% of the craft workers on the project have completed an Occupational Safety and Health Administration 10–hour course;

(4) promotes career training opportunities in the manufacturing, maintenance, and construction industries for local residents, veterans, women, minorities, and formerly incarcerated individuals;

(5) includes provisions for local hiring and the hiring of historically disadvantaged groups;

(6) uses locally, sustainably, and domestically manufactured construction materials and components to the extent practicable;

(7) promotes the use of skilled local labor, particularly with regard to the construction and manufacturing components of the project, using methods including outreach, hiring, or referral methods that are affiliated with registered apprenticeship programs under Title 11, Subtitle 4 of the Labor and Employment Article; and

(8) authorizes the Maryland Department of Labor and the Commission to consider, review, and enforce a public service company's compliance with any community benefit agreement.

(e) "Financing Program" means the Energy Infrastructure Reinvestment category of the Title 17 Clean Energy Financing Program.

(f) "Front–of–meter project" means a project that impacts the utility side of a meter.

(g) "Geothermal borehole" means a geothermal shaft drilled into the earth for use in a system that uses the thermal properties of the earth or groundwater to heat or cool buildings.

(h) "Greenhouse Gas Reduction Fund" means the Greenhouse Gas Reduction Fund under the federal Inflation Reduction Act of 2022.

(i) "Learning From the Ground Up" means the Learning From the Ground Up research team formed by the Home Energy Efficiency Team.

(j) "Low or moderate income housing" has the meaning stated in § 7–703(f)(1)(iii) of this title.

(k) "Pilot system" means a pilot thermal energy network system developed by a gas company to replace gas infrastructure with a thermal energy network system.

(l) "PJM capacity market" means the capacity market of PJM Interconnection, LLC or any successor organization that services the PJM region.

(m) "Thermal energy network system" means a system:

(1) of closed loop underground piping infrastructure, including geothermal boreholes, leading up to a utility meter for the conveyance or storage of renewable, nongreenhouse gas–emitting thermal energy; and

(2) that creates a network of customers with thermal energy for heating and cooling through noncombusting electric heat pumps.

§7–1102.

(a) (1) (i) On or before October 1, 2024, each gas company that serves at least 75,000 customers in its distribution territory shall:

1. begin to develop a plan for a pilot system or systems; and

2. file notice with the Commission that the company has begun plan development.

(ii) On or before October 1, 2024, a gas company that serves fewer than 75,000 customers in its distribution territory may develop a plan for a pilot system or systems in accordance with the requirements of this section.

(2) In developing a plan for a pilot system, a gas company shall coordinate with community groups, local governments, any certified representatives of the employees of the gas company, the Commission, the Administration, and any other groups the gas company considers necessary to allow for diverse design among pilot systems.

(3) Each gas company shall include in the notice filed under paragraph (1) of this subsection:

(i) details of any coordination with community groups, local governments, certified representatives of the employees of the gas company, the Commission, the Administration, and any other groups the gas company considers necessary to allow for diverse design among pilot systems; and

(ii) any letters of support from interested groups.

(b) (1) (i) On or before July 1, 2025, each gas company that serves at least 75,000 customers in its distribution territory shall submit either one or two proposals for a pilot system to the Commission for approval.

(ii) A gas company that serves fewer than 75,000 customers in its distribution territory may submit a proposal for a pilot system to the Commission after providing at least 60 days' notice to the Commission of the company's intent to file a proposal.

(2) A proposal for a pilot system shall ensure that at least 80% of its customers are from low or moderate income housing.

(3) A customer may choose to opt out of a pilot system before the proposal for the pilot system is submitted.

(4) Each proposal for a pilot system shall demonstrate that the gas company has obtained, or is reasonably certain to obtain, any available federal funding in the form of a match, grant, loan, or tax credit, including those established under the Financing Program and the Greenhouse Gas Reduction Fund.

(5) Each gas company is responsible for ensuring that each proposal submitted by the gas company complies with all applicable federal statutes, regulations, and guidance relating to any federal funding.

(6) Each proposal shall address:

(i) how the pilot system will develop useful information for the adoption of regulations governing thermal energy network systems;

(ii) how the pilot system furthers greenhouse gas emissions reduction goals;

(iii) how the pilot system advances financial and technical approaches to equitable and affordable building electrification;

(iv) how the pilot system creates benefits to its customers, employees, and society at large, including public health benefits, quality job retention or creation, reliability, and increased affordability of renewable thermal energy options;

(v) how the pilot system contributes to avoiding costs to electric distribution and transmission systems that would otherwise be required for electrification by comparing the proposed system to the cost of electrification using the most widely commercially available air–source heat pumps;

(vi) how the pilot system contributes to avoiding costs related to gas pipe replacement;

(vii) the extent to which the proposal gives priority to underserved or overburdened communities as defined in § 1–701(a) of the Environment Article;

(viii) the pilot system's ability to bid demand reduction into the PJM capacity market;

(ix) neighborhoods at the end point of a gas system where a full transition from gas systems to electrification could be facilitated within the pilot period or within 5 years after the pilot period concludes;

(x) safety;

(xi) reliability;

(xii) environmental acceptability of the fluid technology employed;

(xiii) operations;

(xiv) maintenance;

(xv) customer complaint resolution;

(xvi) emergency response;

(xvii) points of interconnection between the gas company and homeowner for any fluid transfer;

(xviii) technology to be used to shut off fluid flow to customers;

(xix) customer service termination in the event of bill nonpayment;

(xx) life expectancy of the geothermal system;

(xxi) the extent to which the proposal is cost–effective for ratepayers; and

(xxii) any other requirements as determined by the Commission.

(7) Each proposal shall include:

(i) a proposed rate structure for the pilot system that is projected to ensure that any customer participating in the pilot system does not pay more for utilities than if the customer had not participated; and

(ii) a proposed set of measurements of energy units and accounting standards.

(8) (i) A municipal corporation, county, or community organization may submit neighborhoods to gas companies for consideration as part of a pilot system.

(ii) A municipal corporation, county, or community organization that submits a neighborhood to a gas company for consideration as part of a pilot system under subparagraph (i) of this paragraph shall submit a copy of its proposal to the Commission.

(c) (1) On or before December 31, 2025, the Commission may approve, approve with modifications, or reject a proposal.

(2) Subject to paragraph (3) of this subsection, if the Commission determines that a proposal is in the public interest and is cost–effective, the Commission may approve, approve with modifications, or reject the proposal.

(3) (i) In determining whether to approve, approve with modifications, or reject a proposal, the Commission shall:

1. consider the projected costs and benefits of the projects proposed for inclusion in the pilot system by using a test that includes:

A. societal costs and benefits; and

B. avoided energy and infrastructure investments;

2. determine whether the pilot system is in the public interest and in the interest of ratepayers;

3. determine how each pilot system's performance will be evaluated during the pilot system's duration;

4. ensure that each pilot system:

A. has a provision for customers who may wish to opt out during the course of the pilot period; and

B. details ratepayer impacts for pilot system participants and all customers in the gas company's service territory; and

5. determine whether the proposal is cost–effective in accordance with subparagraph (ii) of this paragraph.

(ii) A proposal under this section is cost–effective if the Commission determines that:

1. the projected benefits are greater than the projected costs for all ratepayers in the gas company's service territory;

2. the gas company has obtained, or is reasonably certain to obtain, federal funding under the Financing Program or the Greenhouse Gas Reduction Fund to support the costs of a pilot system; and

3. the federal funding that the gas company has obtained, or is reasonably certain to obtain, to support the costs of a pilot system

would not be more cost–effective in meeting other greenhouse gas reduction or electrification measures in the State.

(4) (i) Except as provided in subparagraph (ii) of this paragraph, each gas company shall complete construction of a pilot system within 1 year after the Commission approves the system.

(ii) The Commission may extend the deadline under subparagraph (i) of this paragraph for good cause shown.

(5) If the Commission approves a proposal with modifications, the Commission shall give the gas company a reasonable amount of time to make the necessary modifications.

(6) On completion of a pilot system, the gas company shall file with the Commission for evaluation any information relevant to the criteria established under paragraph (3) of this subsection.

(d) (1) Each pilot system shall meet the requirements for pilot systems under this subtitle for 2 years after the pilot system is initiated and operational.

(2) (i) Once the 2–year period under paragraph (1) of this subsection has passed, the Commission, in consultation with the Administration, the Office of People's Counsel, the electric, gas, or water company that owns and manages the pilot system, a certified representative of the employees of the electric company, gas company, or water company that owns and manages the pilot system, and participating customers, shall determine whether to make the pilot system permanent.

(ii) A pilot system made permanent under subparagraph (i) of this paragraph shall continue to meet the requirements placed on pilot systems under this subtitle.

(iii) If a determination is made that a pilot system will not be made permanent under subparagraph (i) of this paragraph, the Commission may approve recovery of all prudently incurred costs necessary for a gas company to comply with the determination.

(3) The Commission shall adopt regulations addressing the decommissioning or discontinuance of a pilot system, including regulations ensuring that the customers who participated in the pilot system do not incur additional expenses for the decommissioning or installation of an appliance that is used in the pilot system and is decommissioned before the end of its useful life.

(e) (1) Each gas company implementing a pilot system shall participate in standardized data collection coordinated by the Commission.

(2) Any standardized data collected under paragraph (1) of this subsection shall:

(i) be filed with the Commission by the appropriate gas company; and

(ii) include data from the Learning From the Ground Up and any other national research project for the development of thermal energy network systems that the Commission considers appropriate.

(f) (1) The Administration shall provide funding in the form of grants to community–based organizations that perform outreach in neighborhoods to increase participation in a pilot system and coordinate the implementation of an approved pilot system.

(2) The Administration may provide up to $1,000,000 in funding to a community–based organization under paragraph (1) of this subsection.

(3) Funding under this subsection may be provided only before October 1, 2025.

(4) Funding under this subsection may be provided from the Strategic Energy Investment Fund established under § 9–20B–05 of the State Government Article or any other source of State or federal funding.

(g) (1) A gas company may request approval from the Commission to track the costs of developing a proposal under this section.

(2) A request under paragraph (1) of this subsection shall include a proposed development plan and budget.

(3) The Commission shall approve a request under paragraph (1) of this subsection on finding that the proposed plan and costs are necessary to meet the requirements under this section, reasonable, and in the public interest.

(4) At a gas company's next rate case proceeding following the approval of a request under this subsection, the Commission may authorize recovery of prudently incurred costs associated with developing the proposal and any carrying costs that the Commission determines are appropriate.

§7–1103.

(a) (1) (i) The Administration shall coordinate funding sources, including all available federal funding, philanthropic funding, funding available under the EmPOWER Maryland Program, and Strategic Energy Investment Fund funding allocated to energy efficiency, to assist an electric company, a gas company, or a water company in covering the costs for all behind–the–meter projects, including full electrification, associated with a thermal energy network system so that any affected residential customers are not required to pay for connection to the thermal energy network system or any appliance replacements required for electrification.

(ii) Funds from the federal Inflation Reduction Act may not exceed:

1. $14,000 per residential unit; and

2. $9,000,000 in total.

(2) (i) Unless precluded by federal law, regulation, or program requirement guidelines, the Administration shall reserve $9,000,000 of federal funding from the U.S. Department of Energy to ensure adequate funding for any appliances installed in connection with a pilot system.

(ii) Funds reserved under subparagraph (i) of this paragraph shall be allocated not later than June 30, 2028, and spent not later than June 30, 2030.

(3) The Administration shall coordinate with the Department of Housing and Community Development to provide services or funding for weatherization for all low or moderate income housing within the pilot system's area.

(4) In providing funding made available under the federal Inflation Reduction Act of 2022 for behind–the–meter projects, the Administration shall give priority to low and moderate income housing.

(b) A gas company implementing a pilot system shall:

(1) be responsible for construction, including any necessary renovations, for behind–the–meter projects relating to any appliance or panel replacements or upgrades necessary to connect to a thermal energy network system and operate without gas;

(2) pursue all tax credits and federal funding available for front–of–meter and behind–the–meter projects; and

(3) coordinate with the Administration to access funds available under the federal Inflation Reduction Act, rebates and credits available under the EmPOWER Maryland Program, and any other available funds.

(c) (1) An electric company, a gas company, or a water company that owns and manages a pilot system shall pay for any cost not covered by the funds and tax credits specified in subsections (a) and (b) of this section.

(2) Subject to subsection (d) of this section, any costs incurred by an electric company, a gas company, or a water company after all funds and tax credits specified under subsections (a) and (b) of this section have been applied may be recovered within 1 year of incurring the costs through rate adjustments or another mechanism approved by the Commission.

(d) If an electric company, a gas company, or a water company is required to own behind–the–meter infrastructure for a specified period of time to qualify for a funding source specified under subsection (a)(1)(i) of this section:

(1) the cost associated with the behind–the–meter infrastructure shall be recovered within the specified ownership period required for the funding;

(2) the electric company, gas company, or water company shall maintain the behind–the–meter infrastructure during the specified ownership period required for the funding; and

(3) ownership of the behind–the–meter infrastructure shall transfer to the electric, gas, or water customer who the infrastructure was installed to benefit when the specified ownership period required for the funding lapses.

(e) Nothing in this section may be construed to authorize or prohibit an electric company, a gas company, or a water company from recovering costs of behind–the–meter infrastructure that does not meet the requirements of this subtitle.

§7–1104.

(a) For any front–of–meter or behind–the–meter projects related to the construction of any thermal energy network system under this subtitle, an electric company, a gas company, or a water company shall:

(1) work with employees already under contract with the company; or

(2) use qualified contractors that abide by a community benefit agreement.

(b) An electric company, a gas company, or a water company shall give its employee bargaining unit an opportunity to work on any front–of–meter or behind–the–meter projects related to the construction of any thermal energy network system.

(c) (1) An electric company, a gas company, or a water company operating a thermal energy network system shall provide its employee bargaining unit an opportunity to provide maintenance and operations for any thermal energy network system.

(2) (i) Subject to subparagraph (ii) of this paragraph, an electric company, a gas company, or a water company may contract any work under this subtitle not conducted by the company's employee bargaining unit to a qualified contractor.

(ii) An electric company, a gas company, or a water company shall require a contractor or subcontractor on a project under this subtitle to:

1. pay the area prevailing wage rate determined by the Commissioner of Labor and Industry, including wages and fringe benefits;

2. offer health care and retirement benefits to the employees working on the project;

3. participate in an apprenticeship program registered with the State or the U.S. Department of Labor;

4. establish and execute a plan for outreach, recruitment, and retention of State residents to perform work on the project, with an aspirational goal of 25% of total work hours performed by Maryland residents, including residents who are:

A. returning citizens;

B. women;

C. minority individuals; or

D. veterans;

5. have been in compliance with federal, State, and local wage and hour laws for the previous 3 years;

6. be subject to all State reporting and compliance requirements;

7. maintain all appropriate licenses in good standing; and

8. establish and execute a plan to meet or exceed the minority business enterprise participation goals established under subsection (d)(3) of this section.

(d) (1) The findings and evidence relied on by the General Assembly for the continuation of the Minority Business Enterprise Program under Title 14, Subtitle 3 of the State Finance and Procurement Article are incorporated in this subsection.

(2) To the extent practicable and authorized by the U.S. Constitution, an approved pilot system applicant and the Maryland Environmental Service shall comply with the State's Minority Business Enterprise Program.

(3) (i) Within 6 months after the approval of a pilot system under § 7–1102(c) of this subtitle, the Governor's Office of Small, Minority, and Women Business Affairs, in consultation with the Office of the Attorney General and the gas company operating the approved pilot system, shall establish a clear plan for setting reasonable and appropriate minority business enterprise participation goals and procedures for the pilot system.

(ii) To the extent practicable, the goals and procedures specified in subparagraph (i) of this paragraph shall be based on the requirements of Title 14, Subtitle 7 of the State Finance and Procurement Article and the regulations implementing that subtitle.

(4) (i) A gas company operating a pilot system and the Maryland Environmental Service shall submit an annual report on minority enterprise participation to the Commission.

(ii) The Commission shall provide any reports received under subparagraph (i) of this paragraph to the General Assembly, in accordance with § 2–1257 of the State Government Article.

§7–1105.

(a) An electric company, a gas company, or a water company may own, manage, and recover costs associated with a thermal energy network system subject to the approval of the Commission.

(b) An electric company, a gas company, or a water company may drill a geothermal borehole in a public utility right–of–way where feasible to meet the requirements of this subtitle.

§7–1106.

The Commission may retain independent consultants and experts to:

(1) assist the Commission with its evaluation of pilot system applications under § 7–1102(c) of this subtitle; and

(2) support the Commission in the completion of any requirements under this subtitle.

§7–1201.

(a) In this part the following words have the meanings indicated.

(b) "Dispatchable energy generation" means a generating station or energy storage device with:

(1) an effective load carrying capability of at least 65%, as determined by PJM Interconnection's most recent ELCC Class Ratings; and

(2) a lower greenhouse gas emissions profile than coal or oil energy generating stations.

(c) "Effective load carrying capability" or "ELCC" means the expected capacity contribution of an energy resource during PJM Interconnection's operating hours when there is high electricity demand and low resource output.

(d) "Effective nameplate capacity" means the amount of energy an energy storage device can deliver continuously to the electric system over a period of at least 4 hours.

(e) "Energy storage device" has the meaning stated in § 7–216 of this title.

(f) "Generating station" has the meaning stated in § 7–207 of this title.

(g) "Large capacity energy resource" means a generating station or energy storage device that:

(1) on or before January 1, 2025:

(i) has applied to PJM for interconnection approval; or

(ii) has been approved by PJM for interconnection; and

(2) has a capacity rating equal to or greater than 20 megawatts after accounting for the effective load carrying capability.

§7–1202.

(a) An application for a proposed project under Parts III and IV of this subtitle is subject to a community benefit agreement.

(b) A community benefit agreement shall:

(1) promote increased opportunities for local businesses and small, minority, women–owned, and veteran–owned businesses in the clean energy industry;

(2) ensure the timely, safe, and efficient completion of the project by:

(i) facilitating a steady supply of highly skilled craft workers who shall be paid not less than the prevailing wage rate determined by the Commissioner of Labor and Industry under Title 17, Subtitle 2 of the State Finance and Procurement Article; and

(ii) guaranteeing that the construction work performed in connection with the project will be subject to an agreement that:

1. establishes the terms and conditions of employment at the construction site of the project or a portion of the project;

2. guarantees against strikes, lockouts, and similar disruptions;

3. ensures that all work on the project fully conforms to all relevant State and federal laws, rules, and regulations, including all required training for employees;

4. creates mutually binding procedures for resolving labor disputes arising during the term of the dispatchable energy generation project;

5. sets forth other mechanisms for labor–management cooperation on matters of mutual interest and concern, including productivity, quality of work, safety, and health; and

6. binds all contractors and subcontractors to the terms of the agreement through the inclusion of appropriate provisions in all relevant solicitation and contract documents;

(3) promote safe completion of the project by ensuring that at least 80% of the craft workers on the project have completed a 10–hour Occupational Safety and Health Administration course;

(4) promote career training opportunities in the manufacturing, maintenance, and construction industries for local residents, veterans, women, minorities, and formerly incarcerated individuals;

(5) include provisions for local hiring and the hiring of historically disadvantaged groups;

(6) use locally, sustainably, and domestically manufactured construction materials and components to the extent practicable;

(7) require the use of skilled local labor, particularly with regard to the construction and manufacturing components of the project, using methods including outreach, hiring, and referral methods that are affiliated with registered apprenticeship programs under Title 11, Subtitle 4 of the Labor and Employment Article; and

(8) authorize the Maryland Department of Labor and the Commission to consider, review, and enforce a storage developer or energy developer's compliance with any community benefit agreement.

§7–1203.

The Commission may contract for the services of independent consultants and experts to implement and execute any part of this subtitle.

§7–1206.

(a) (1) On or before October 1, 2025, and at other times as provided in subsection (b) of this section, the Commission shall issue one or more solicitations for proposals for the construction or expansion of:

(i) dispatchable energy generation; and

(ii) large capacity energy resources.

(2) The Commission shall set the closing date for the solicitation period to be not sooner than 30 days after issuing the request for proposals under paragraph (1) of this subsection.

(b) The Commission may provide for an additional solicitation period if the capacity specified under § 7–1208(d)(1) of this subtitle has not been met during the initial solicitation period.

(c) The Commission shall provide to the Power Plant Research Program a copy of each proposal received in response to the solicitation.

(d) (1) Except as provided in paragraph (2) of this subsection, the Commission may not approve or develop a financial commitment for the costs related to the construction or operation of a dispatchable energy generation project or large capacity energy resource project approved in accordance with this part.

(2) A dispatchable energy generation project or large capacity energy resource project approved in accordance with this part may participate in other processes under which ratepayer funds are awarded to dispatchable energy generation or large capacity energy resources.

§7–1207.

The Commission shall include specifications in a solicitation issued under § 7–1206 of this subtitle that require each proposal for a dispatchable energy generation project and large capacity energy resource project to:

(1) if the project is a natural gas energy generating station, ensure that the project can be converted to use only hydrogen or a zero–emissions biofuel as the energy source when the Commission determines that the conversion is feasible;

(2) include a detailed description of the timeline for construction of the project, including:

(i) identifying the entity that has ownership or site control of the project site;

(ii) queue position for PJM approval;

(iii) the ability to procure materials, including turbines and other pipeline materials; and

(iv) any information that demonstrates the applicant's:

1. readiness to apply for a certificate of public convenience and necessity under § 7–207 or § 7–207.4 of this title as soon as is reasonably feasible after receiving approval for the project, including the anticipated application date; and

2. ability to develop the project within the timeline presented;

(3) include a description of the location of the project site, including:

(i) the proximity of the site to existing transmission lines and rights–of–way; and

(ii) whether the project would be retrofitting a current or previous generating station site;

(4) if applicable, include a description of:

(i) the type and amount of co–located energy generation from Tier 1 renewable sources, as defined in § 7–701 of this title, that would be used with the project;

(ii) the amount of co–located energy storage that would be used with the project;

(iii) the use of carbon capture or sequestration technology to mitigate greenhouse gas emissions from the project; and

(iv) the amount of hydrogen or zero–emissions biofuels that the project will mix with natural gas for energy generation; and

(5) state the emissions intensity of the generation output over the life of the project.

§7–1208.

(a) (1) Within 45 days after the closing date for the solicitation period set in accordance with § 7–1206 of this subtitle or sooner as determined by the Commission, the Power Plant Research Program shall recommend to the Commission proposals to be authorized to utilize the expedited certificate of public convenience and necessity process under § 7–207.4 of this title.

(2) The Power Plant Research Program shall base its recommendations on the information in the proposals received and the specifications listed in §§ 7–1207 and 7–1209 of this subtitle.

(b) Subject to subsection (c) of this section and after considering the recommendations of the Power Plant Research Program made under subsection (a) of this section, unless the Commission grants a request for an extension for good cause, not later than 60 days after the close of the solicitation period the Commission shall approve, conditionally approve, or deny a proposal submitted in response to a solicitation issued under § 7–1206 of this subtitle.

(c) In addition to the criteria specified in § 7–1207 of this subtitle, the Commission shall determine which proposals to approve based on the factors and requirements specified in § 7–1209 of this subtitle.

(d) (1) Subject to paragraph (2) of this subsection, the combined total capacity of dispatchable energy generation projects and large capacity energy resource projects approved under this section shall be greater than the combined summer peak capacity profile of coal and oil energy generating stations in the State as outlined under Table 9 of the Commission's Ten–Year Plan (2024–2033) of Electric Companies in Maryland.

(2) The combined total capacity of natural gas dispatchable energy generation projects and large capacity energy resource projects approved under this section may not exceed the combined summer peak capacity profile of coal and oil energy generating stations in the State as outlined under Table 9 of the Commission's Ten–Year Plan (2024–2033) of Electric Companies in Maryland.

(e) Every 5 years after the date that a natural gas dispatchable energy generation project or large capacity energy resource project becomes operational under a certificate of public convenience and necessity issued under § 7–207.4 of this title, the owner or operator of the natural gas dispatchable energy generation or large capacity energy resource shall submit to the Commission a report regarding the feasibility of converting the natural gas dispatchable energy generation or large capacity energy resource to the use of only hydrogen or zero–emissions biofuel.

(f) An approval or conditional approval of a project under this section does not guarantee that the project will be issued a certificate of public convenience and necessity under § 7–207 or § 7–207.4 of this title.

§7–1209.

(a) (1) Except as provided in paragraph (2) of this subsection and subject to paragraph (3) of this subsection, the Commission may approve up to 10 proposals to be eligible to undergo the expedited certificate of public convenience and necessity process under § 7–207.4 of this title.

(2) The Commission may approve more than 10 proposals to be eligible to undergo the expedited certificate of public convenience and necessity process under § 7–207.4 of this title only if the Commission determines that:

(i) the Commission has sufficient resources to complete that number of expedited reviews of applications for a certificate of public convenience and necessity under § 7–207.4 of this title; and

(ii) the number of expedited reviews of applications for a certificate of public convenience and necessity under § 7–207.4 of this title is in the public interest.

(3) If not more than 10 projects respond to a solicitation issued under § 7–1206 of this subtitle, the Commission shall approve, subject to § 7–1208(d)(2) of this subtitle, all projects that apply for the solicitation.

(b) (1) For the purpose of this subsection, a transmission energy storage device shall be considered a non–emissions–emitting project.

(2) Subject to paragraph (3) of this subsection, the Commission shall approve 4 non–emissions–emitting projects to every 1 emissions–emitting project.

(3) The Commission may waive the requirement under paragraph (2) of this subsection if a sufficient number of applications for projects that meet the requirement are not received.

(c) (1) In determining which proposals to approve, the Commission shall prioritize dispatchable energy generation projects over large capacity energy resources.

(2) In addition to the prioritization in paragraph (1) of this subsection, if the Commission receives more than 10 proposals or determines that

more than 10 proposals may be approved under § 7–1208 of this subtitle, the Commission shall base the approvals on:

(i) which projects will provide the highest capacity value to the State;

(ii) the timeliness of a project to begin construction;

(iii) the timeliness of a project to begin operation; and

(iv) which projects have the lowest emissions intensity.

(d) The Commission shall determine when the proceedings for a certificate of public convenience and necessity under § 7–207.4 of this title will begin for a proposal approved under this part.

(e) The Commission may contract for the services of independent consultants and experts in evaluating and comparing whether a proposal shall be approved to be eligible to undergo an expedited certificate of public convenience and necessity process under § 7–207.4 of this title.

(f) A proposal that is not approved to be eligible to undergo an expedited certificate of public convenience and necessity process under § 7–207.4 of this title may apply for a certificate of public convenience and necessity under § 7–207 of this title.

§7–1212.

(a) (1) After the effective date of Commission regulations implementing this part, a person may submit an application to the Commission for approval of a proposed nuclear energy generation project, including an application to upgrade the generation capabilities of an existing nuclear energy generating station.

(2) For an application submitted in accordance with paragraph (1) of this subsection, the long–term pricing schedule shall be based only on any new generation proposed in the application, including new generation at an existing nuclear energy generating station.

(b) (1) On receipt of an application for approval of a proposed nuclear energy generation project, the Commission shall:

(i) open an application period during which other interested persons may submit applications for approval of a proposed nuclear energy generation project; and

(ii) provide notice that the Commission is accepting applications for approval of proposed nuclear energy generation projects.

(2) The Commission shall set the closing date for the application period to be not sooner than 90 days after the notice provided under paragraph (1) of this subsection.

(c) The Commission shall provide at least two additional application periods before January 1, 2031.

(d) The Commission may provide additional application periods that meet the requirements of this section.

§7–1213.

(a) Subject to subsection (b) of this section, the Commission shall approve, conditionally approve, or deny an application submitted under § 7–1212 of this subtitle within 1 year after the close of the application period.

(b) The Commission may extend the time to approve, conditionally approve, or deny an application under subsection (a) of this section for good cause.

§7–1214.

An application submitted for a nuclear energy generation project under § 7–1212 of this subtitle shall include:

(1) a detailed description and financial analysis of the project;

(2) the proposed method of financing the project, including documentation demonstrating that the applicant has applied for all current eligible State and federal grants, rebates, tax credits, loan guarantees, and other programs available to offset the cost of the project or provide tax advantages;

(3) a commitment that the applicant will use best efforts to apply for all eligible State and federal grants, rebates, tax credits, loan guarantees, or other similar benefits as those benefits become available;

(4) a cost–benefit analysis that shall include, at a minimum:

(i) a detailed input–output analysis of the impact of the project on income, employment, wages, and taxes in the State;

(ii) detailed information concerning assumed employment impacts in the State, including the expected duration of employment opportunities, the salary of each position, and other supporting evidence of employment impacts;

(iii) an analysis of any impact on residential, commercial, and industrial ratepayers over the life of the project;

(iv) an analysis of any long–term effect on energy and capacity markets as a result of the project;

(v) an analysis of any impact the project would have on businesses in the State;

(vi) an analysis of the anticipated environmental benefits, health benefits, and economic impacts of the project to the citizens of the State; and

(vii) an analysis of other benefits resulting from the project, including increased in–State construction, operation and maintenance needs, and equipment purchases;

(5) a proposed long–term pricing schedule for the project that shall specify a price for the generation attributes, including the energy, capacity, ancillary services, and environmental attributes;

(6) a decommissioning and waste storage plan for the project, including provisions for decommissioning or waste storage as required by the U.S. Nuclear Regulatory Commission;

(7) a commitment to abide by the requirements set forth in § 7–1202 of this subtitle;

(8) a description of the applicant's plan for engaging small businesses, as defined in § 14–501 of the State Finance and Procurement Article;

(9) if applicable, the statement specified in § 7–1215(b)(2) of this subtitle; and

(10) any other information the Commission requires.

§7–1215.

(a) The Commission shall use the following criteria to evaluate and compare applications for nuclear energy generation projects submitted during an application period under § 7–1212 of this subtitle:

(1) the lowest cost impact on ratepayers of the price set under a proposed long–term pricing schedule;

(2) potential reductions in transmission congestion prices within the State;

(3) potential changes in capacity prices within the State;

(4) potential reductions in locational marginal pricing;

(5) potential long–term changes in capacity prices within the State from the project as it compares to conventional energy sources;

(6) the extent to which the cost–benefit analysis submitted under § 7–1214 of this subtitle demonstrates positive net economic, environmental, and health benefits to the State;

(7) the extent to which an applicant's plan for engaging small businesses meets the goals specified in Title 14, Subtitle 5 of the State Finance and Procurement Article;

(8) the extent to which an applicant's plan provides for the use of skilled labor, particularly with regard to the construction and manufacturing components of the project, through outreach, hiring, or referral systems that are affiliated with registered apprenticeship programs under Title 11, Subtitle 4 of the Labor and Employment Article;

(9) the extent to which an applicant's plan provides for the use of an agreement designed to ensure the use of skilled labor and to promote the prompt, efficient, and safe completion of the project, particularly with regard to the construction, manufacturing, and maintenance of the project;

(10) the extent to which an applicant's plan provides for compensation to its employees and subcontractors consistent with wages outlined under Title 17, Subtitle 2 of the State Finance and Procurement Article;

(11) siting and project feasibility;

(12) the extent to which the project would require transmission or distribution infrastructure improvements in the State; and

(13) any other criteria that the Commission determines are appropriate.

(b) (1) In this paragraph, "minority" means an individual who is a member of any of the groups listed in § 14–301(k)(1)(i) of the State Finance and Procurement Article.

(2) If an applicant is seeking investors in a proposed nuclear energy generation project, the applicant shall take the following steps before the Commission may approve the proposed project:

(i) make serious, good–faith efforts to solicit and interview a reasonable number of minority investors;

(ii) as part of the application, submit a statement to the Commission that lists the names and addresses of all minority investors interviewed and whether or not any of those investors have purchased an equity share in the entity submitting the application;

(iii) sign a memorandum of understanding with the Commission that requires the applicant to again make serious, good–faith efforts to solicit and interview a reasonable number of minority investors in any future attempts to raise venture capital or attract new investors to the project;

(iv) sign a memorandum of understanding with the Commission that requires the applicant to use best efforts and effective outreach to obtain, as a goal, contractors and subcontractors for the project that are minority business enterprises, to the extent practicable, as supported by a disparity study; and

(v) sign a memorandum of understanding with the Commission and skilled labor organizations that requires the applicant to follow the portions of the applicant's plan that relate to the criteria set forth in subsection (a)(8) and (9) of this section.

(3) The Governor's Office of Small, Minority, and Women Business Affairs, in consultation with the Office of the Attorney General, shall provide assistance to all potential applicants and potential minority investors to satisfy the requirements under paragraph (2)(i) and (iii) of this subsection.

§7–1216.

(a) The Commission may not approve an application for a nuclear energy generation project submitted under § 7–1212 of this subtitle unless:

(1) the project is connected to the electric system serving the State;

(2) over the duration of the proposed long–term pricing schedule, the projected net rate impact for an average residential customer, based on annual consumption of 12,000 kilowatt–hours and combined with the projected net rate impact of other nuclear energy generation projects, does not exceed an amount determined by the Commission;

(3) over the duration of the proposed long–term pricing schedule, the projected net rate impact for all nonresidential customers, considered as a blended average and combined with the projected net rate impact of other nuclear energy generation projects, does not exceed a percentage determined by the Commission of nonresidential customers' total annual electric bills; and

(4) the price specified in the proposed long–term pricing schedule does not exceed an amount determined by the Commission.

(b) When calculating the projected net average rate impacts for nuclear energy generation projects under this section, the Commission shall apply the same net long–term cost per megawatt–hour to residential and nonresidential customers.

(c) The Commission shall keep confidential any amounts determined under subsection (a) of this section.

§7–1217.

(a) An order the Commission issues approving an application for a nuclear energy generation project submitted under § 7–1212 of this subtitle shall:

(1) specify the long–term pricing schedule;

(2) specify the duration of the long–term pricing schedule, not to exceed 30 years;

(3) provide that:

(i) a payment may not be made under a long–term pricing schedule until electricity supply is generated by the project; and

(ii) ratepayers and the State shall be held harmless for any cost overruns associated with the project; and

(4) require that any debt instrument issued in connection with the project include language specifying that the debt instrument does not establish a debt, an obligation, or a liability of the State.

(b) An order approving a nuclear energy generation project vests the owner of the project with the right to receive payments according to the terms in the order.

(c) On or before March 1 each year, the Commission shall report to the Governor and, in accordance with § 2–1257 of the State Government Article, the Senate Committee on Education, Energy, and the Environment and the House Economic Matters Committee on:

(1) applicant compliance with the minority business enterprise participation goals under § 7–1215(b) of this subtitle; and

(2) with respect to the community benefit agreement under § 7–1202 of this subtitle:

(i) the availability and use of opportunities for local businesses and small, minority, women–owned, and veteran–owned businesses;

(ii) the success of efforts to promote career training opportunities in the manufacturing, maintenance, and construction industries for local residents, veterans, women, and minorities; and

(iii) compliance with the minority workforce goal under § 7–1202 of this subtitle.

§7–1218.

(a) If the Commission approves an application that demonstrates, based on the criteria specified in § 7–1214 of this subtitle, positive net economic impacts and environmental and health benefits to the State, the Commission shall issue an order in compliance with § 7–1217 of this subtitle.

(b) The Commission may not issue an order to facilitate the financing of a nuclear energy generation project unless the project is subject to a community benefit agreement under § 7–1202 of this subtitle.

§7–1219.

(a) The findings and evidence relied on by the General Assembly for the continuation of the Minority Business Enterprise Program under Title 14, Subtitle 3 of the State Finance and Procurement Article are incorporated in this section.

(b) To the extent practicable and authorized by the United States Constitution, an applicant approved for a nuclear energy generation project under § 7–1213 of this subtitle shall comply with the State's Minority Business Enterprise Program.

(c) (1) Within 6 months after the issuance of an order that approves a nuclear energy generation project and includes a long–term pricing component, the Governor's Office of Small, Minority, and Women Business Affairs, in consultation with the Office of the Attorney General and the approved applicant, shall establish a clear plan for setting reasonable and appropriate minority business enterprise participation goals and procedures for each phase of the nuclear energy generation project.

(2) To the extent practicable, the goals and procedures set in accordance with paragraph (1) of this subsection shall be based on the requirements of Title 14, Subtitle 3 of the State Finance and Procurement Article and the regulations implementing that subtitle.

(3) Every 6 months following the issuance of an order that approves a nuclear energy generation project and includes a long–term pricing component, the approved applicant shall submit a report on the progress made to establish and implement minority business enterprise goals and procedures to the Commission.

§7–1220.

(a) In this section, "zero–emission credit" means the difference between the price that a nuclear energy generating station with a long–term pricing schedule approved in an order issued under § 7–1217 of this subtitle may receive on the wholesale market and the cost of constructing the nuclear energy generating station.

(b) The Commission shall adopt regulations that:

(1) establish the nuclear energy long–term pricing purchase obligation sufficiently in advance to allow an electric company to reflect nuclear energy long–term pricing costs as a nonbypassable surcharge that is added to the electric company's base distribution rate on customer bills;

(2) define rules that facilitate and ensure the secure and transparent transfer of revenues and long–term pricing payments among parties;

(3) define the terms and procedures of the nuclear energy long–term pricing schedule obligations, including:

(i) establishing a formula and process to adjust the value of the long–term pricing schedule every 2 years based on projected wholesale market prices adjusted by the locational value and earning potential in the PJM region of the nuclear energy generating station; and

(ii) establishing a per megawatt hour cap on any long–term pricing schedule specified in an order issued under § 7–1217 of this subtitle;

(4) require the Commission to establish an escrow account; and

(5) to meet the total statewide long–term pricing purchase obligation for all applications approved in an order issued under § 7–1217 of this subtitle, require the Commission to annually establish each electric company's zero–emission credit purchase obligation based on the most recent final electricity sales data as reported by PJM Interconnection and measured at the customer's meter in proportion to the electric company's share of statewide load.

(c) (1) Each electric company shall procure from the escrow account established by regulation under this section a quantity of zero–emission credits equal to the electric company's respective percentage of retail electric sales each year.

(2) Subject to any escrow account reserve requirement the Commission establishes, if there are insufficient zero–emission credits available to satisfy the electric companies' zero–emission credit purchase obligations, the overpayment shall be distributed to electric companies to be refunded or credited to each distribution customer based on the customer's consumption of electricity supply that is subject to the renewable energy portfolio standard.

(d) A debt, an obligation, or a liability of a nuclear energy generation project or of an owner or operator of a nuclear energy generation project may not be considered a debt, an obligation, or a liability of the State.

§7–1221.

On or before July 1, 2027, the Commission shall adopt regulations to carry out this part.

§7–1224.

(a) The Commission shall, by regulation or order, establish a competitive process for the procurement of projects for the construction and deployment of front–of–the–meter transmission energy storage devices in the State.

(b) (1) (i) On or before January 1, 2026, the Commission shall issue a procurement solicitation for applications for projects for the construction and deployment of front–of–the–meter transmission energy storage devices.

(ii) The procurement solicitation shall be for a maximum of 800 megawatts of cumulative energy storage capacity, as measured in effective nameplate capacity.

(2) On or before October 1, 2026, the Commission shall issue a decision on whether to approve one or more proposals in accordance with § 7–1226(c) of this subtitle.

(3) (i) Except as provided in subparagraph (ii) of this paragraph, the transmission energy storage devices procured in accordance with this subsection shall be operational within 24 months after a project is selected by the Commission.

(ii) The Commission may extend the operating deadline under subparagraph (i) of this paragraph for good cause shown.

(c) (1) On or before January 1, 2027, the Commission shall issue a second procurement solicitation for the procurement of projects for the construction and deployment of front–of–the–meter transmission energy storage devices.

(2) The procurement solicitation shall be for a maximum of 800 megawatts of cumulative energy storage capacity, as measured in effective nameplate capacity.

(3) On or before October 1, 2027, the Commission shall issue a decision on whether to approve one or more proposals in accordance with § 7–1226(c) of this subtitle.

(4) (i) Except as provided in subparagraph (ii) of this paragraph, the transmission energy storage devices procured in accordance with this subsection shall be operational within 24 months after a project is selected by the Commission.

(ii) The Commission may extend the operating deadline under subparagraph (i) of this paragraph for good cause shown.

§7–1225.

(a) The Commission shall include specifications in a procurement solicitation issued under § 7–1224 of this subtitle that require each proposal to:

(1) include a proposed pricing schedule for the transmission energy storage project that:

(i) is for at least 15 years; and

(ii) represents the anticipated monthly wholesale value of capacity per megawatt and other benefits identified in a cost–benefit analysis, but not including any anticipated wholesale energy and ancillary services revenue;

(2) include a cost–benefit analysis of the project and proposed pricing schedule comparison on a dollar–per–megawatt–hour basis, including an analysis of:

(i) the locational value and time to deployment of the energy storage devices;

(ii) the value of long–duration storage, including its capacity accreditation value for resource adequacy as measured in PJM Interconnection's effective load carrying capability class ratings;

(iii) avoided or delayed transmission, generation, and distribution costs;

(iv) avoided emissions in the short term and projected avoided emissions in the long term, measured using the social cost of carbon, as determined by the U.S. Environmental Protection Agency as of January 1, 2025;

(v) the value of the rapid deployment of energy storage devices;

(vi) the value of reliability during periods of electric system stress, including the ability to deliver capacity during periods of extreme weather, fuel scarcity, and large unplanned resource outages; and

(vii) any other avoided costs;

(3) ensure that the owner or operator of the project has the capability to export electricity for sale on the wholesale market and bid into the PJM capacity market under an agreement with PJM Interconnection;

(4) ensure that the energy storage devices can deliver their effective nameplate capacity;

(5) incorporate a community benefit agreement;

(6) attest in writing that all contractors and subcontractors working on the project have been in compliance with federal and State wage and hour laws for the immediately preceding 3 years or the duration of the contractor's or subcontractor's business operation, whichever is longer; and

(7) ensure a competitive bidding process, including by redacting proprietary information provided to the Commission.

(b) An energy storage device shall be considered capable of delivering its effective nameplate capacity under this section if:

(1) the energy storage device will have the capacity interconnection rights with PJM Interconnection equal to its effective nameplate capacity; or

(2) (i) the energy storage device will have surplus interconnection service with PJM Interconnection; and

(ii) the ability of the energy storage device to deliver its effective nameplate capacity will be limited only by the generation of another nonenergy storage generation resource with which the energy storage device shares a point of interconnection to the electric transmission system.

(c) Front–of–the–meter transmission energy storage devices paired with Tier 1 or Tier 2 renewable sources, as defined under § 7–701 of this title, may be included in a proposal in response to a procurement solicitation under § 7–1224 of this subtitle.

§7–1226.

(a) In selecting a proposal for a front–of–the–meter transmission energy storage device project, the Commission:

(1) shall specify:

(i) a 15–year pricing schedule that uses a monthly fixed price for each megawatt that represents the anticipated wholesale value of capacity for the front–of–the–meter transmission energy storage device and the benefits identified in § 7–1225(a)(2) of this subtitle;

(ii) that each electricity supplier shall be responsible for purchasing storage capacity credits at the monthly fixed price schedule proportional to the electricity supplier's capacity obligation;

(iii) that all PJM capacity market revenue earned by the energy storage project be transmitted to the Commission to be held in escrow for distribution to electric companies to be refunded or credited to each distribution customer proportional to the electricity supplier's monthly capacity purchase obligation;

(iv) that the energy storage project shall retain any energy and ancillary services revenue earned;

(v) that electric companies must jointly select an escrow administrator, in consultation with the Commission; and

(vi) for any cost recovery by an electric company, that the recovery shall be done through a nonbypassable surcharge established by the electric company that is added to the electric company's base distribution rate or supply rate on customer bills;

(2) shall specify that for continued receipt of payment under item (1) of this subsection, an applicant shall demonstrate, to the satisfaction of the Commission, that the applicant's energy storage device is available;

(3) shall incorporate penalties for nonperformance and underperformance in the contract, including withholding of payment that reflects the degree of underperformance, for energy storage devices that fail to meet availability metrics;

(4) may terminate energy storage devices from the program if device performance does not improve after appropriate notice and opportunity to cure;

(5) shall consider other nonprice factors to ensure project deliverability within 24 months after the award date, such as:

(i) project maturity dates;

(ii) interconnection queue status;

(iii) site control;

(iv) developer experience, including procuring, constructing, and operating front–of–the–meter transmission energy storage devices;

(v) any evidence of key development milestones to substantiate project deliverability within 24 months after the award date;

(vi) safety plans; and

(vii) any other relevant nonprice factors as determined by the Commission; and

(6) shall require, at a minimum, all energy storage devices that utilize lithium–ion batteries to comply with the most up–to–date revision of the National Fire Protection Association 855: Standard for the Installation of Stationary Energy Storage Systems in effect at the project's final permit application date.

(b) (1) Each energy storage project shall include a proposed decommissioning plan.

(2) The proposed decommissioning plan shall include a plan to maximize the recycling or reuse of all qualifying components of each energy storage device.

(3) The owner or operator of an energy storage device may submit a revised recycling and reuse plan that incorporates emerging recycling and reuse opportunities up to 1 year before executing the decommissioning plan.

(c) The Commission shall:

(1) after giving public notice, hold one or more public hearings to receive public comment and evaluate the proposals; and

(2) subject to subsection (d) of this section, issue one or more orders to select a proposal or proposals for development.

(d) The Commission may end the solicitation process without selecting a proposal if the Commission finds that none of the proposals adequately support the goals established under this subtitle, including the goal of securing affordable, reliable electrical service for Maryland residents.

§7–1227.

(a) For any proposal selected under this part, the Commission may adopt conditions for the construction and operation of facilities included in the proposal.

(b) An order selecting a proposal under § 7–1226 of this subtitle bestows the same rights to the selected proposal that a generating system would otherwise be granted through a certificate of public convenience and necessity under § 7–207 of this title if the selected proposal is reviewed under an alternative process as determined by the Commission.

§7–1228.

Any transmission energy storage device built in accordance with this subtitle shall count toward the energy storage device deployment goals under § 7–216.1 of this title.

§7–1229.

On or before December 31, 2026, the Commission shall report, in accordance with § 2–1257 of the State Government Article, to the General Assembly on the effectiveness of the procurement process established under this part.

§7–1301.

(a) In this subtitle the following words have the meanings indicated.

(b) "Director" means the Director of the Strategic Energy Planning Office.

(c) "Office" means the Strategic Energy Planning Office.

(d) "PJM region" has the meaning stated in § 7–701 of this title.

(e) "Risk Report" means the Comprehensive Wholesale Energy Markets and Bulk Power System Risk Report developed under § 7–1303 of this subtitle.

§7–1302.

(a) There is a Strategic Energy Planning Office.

(b) (1) The head of the Office is the Director.

(2) (i) The Director shall be appointed by the Governor with the advice and consent of the Senate.

(ii) The term of the Director is 5 years and begins on July 1.

(iii) At the end of a term, the Director continues to serve until a successor is appointed and qualifies.

(iv) A Director who is appointed after a term has begun serves for the rest of the term and until a successor is appointed and qualifies.

(v) A Director may serve more than one term.

(3) The Governor may remove the Director for incompetence or misconduct in accordance with § 3–307 of the State Government Article.

(4) The Director is entitled to a salary as provided in the State budget.

(c) (1) The Office shall have the staff provided for in the State budget.

(2) The Office may hire private consultants if necessary to carry out the requirements of this subtitle.

(d) In order to carry out the requirements of this subtitle, the Office shall collaborate with:

(1) the Maryland Energy Administration;

(2) the Commission;

(3) the Power Plant Research Program;

(4) the Maryland Clean Energy Center; and

(5) the Department of the Environment.

(e) The Office shall coordinate with the Commission to establish procedures and rules to obtain information from electric companies and gas companies necessary to accomplish the Office's duties under this subtitle.

§7–1303.

(a) (1) Every 3 years, the Office shall develop a Comprehensive Wholesale Energy Markets and Bulk Power System Risk Report.

(2) The purpose of the Risk Report is to:

(i) assess wholesale energy market financial, resource adequacy, and reliability risks associated with serving the State's long–term energy needs; and

(ii) identify any necessary cost–effective solutions that ensure electric system reliability while meeting the State's energy policy goals.

(3) The solutions identified in the Risk Report shall seek to:

(i) minimize the growth of the cost of electricity or lower the cost of electricity; and

(ii) minimize energy resource reliability risks.

(b) (1) The Risk Report shall include energy and demand forecasts that contain:

(i) reasonable, 20–year projections for electricity load and energy demands for:

1. transmission zones; and

2. electric service territories; and

(ii) projections for meeting State energy needs and clean energy goals and load forecasts in the PJM region, including:

1. low, average, and high projections of energy demand based on State policies and other reasonable assumptions that impact the provision of electricity in the State; and

2. other projections as necessary.

(2) In collecting the data for the forecasts under paragraph (1) of this subsection, the Office should, but is not required to, use:

(i) historical and projected information from electric companies;

(ii) load forecasts for the PJM region;

(iii) appropriate econometric data for the State; and

(iv) any other information the Office considers appropriate.

(c) (1) The Office shall examine different wholesale energy market and bulk power system scenarios to serve the forecasts under subsection (b) of this section.

(2) Each scenario examined shall:

(i) identify the resulting wholesale energy market and bulk power system financial and resource adequacy impacts of serving the forecasts with

the existing electric system, known additions to the electric system, and electric system resource retirements; and

(ii) identify resource and demand–side management solutions that may resolve potential resource adequacy issues at the least cost.

(3) For a subset of scenarios that are primarily relied on within the Risk Report, the Office shall, in addition to the requirements of paragraph (2) of this subsection:

(i) identify the resulting wholesale market and bulk power system reliability impacts of serving the forecasts with the existing electric system, known additions to the electric system, and electric system resource retirements; and

(ii) identify resource and demand–side management solutions that may resolve potential reliability constraints at the least cost.

(4) Each scenario shall also examine:

(i) different energy resource mixes to meet the State's energy needs, including the use of demand–side management;

(ii) different approaches for meeting the State's clean energy goals;

(iii) improvements to existing energy resources as opposed to the deployment of new energy resources;

(iv) balancing the use of electricity imported from outside the State with the development of new energy resources in the State;

(v) financial and other risks associated with retiring energy generation resources;

(vi) directional assessing of cost risks to ratepayers; and

(vii) impacts to the wholesale energy market and bulk power system in meeting the State's policy goals related to electricity.

(5) The scenarios required under paragraph (1) of this subsection shall include:

(i) at least one scenario that examines the achievement of the State's clean energy goals;

(ii) at least one scenario that examines a least–cost approach to meeting the State's projected energy needs; and

(iii) at least one scenario that assumes no changes in State energy and climate policies.

(d) (1) The Risk Report shall:

(i) be informed by the forecasts and scenarios required under this section;

(ii) provide information on the risks associated with serving the identified energy forecasts and achievement of the State's clean energy goals;

(iii) discuss the potential financial impacts of the different scenarios examined under subsection (c) of this section on the State and ratepayers;

(iv) identify the financial, resource adequacy, and reliability risks of the wholesale energy markets and bulk power system on ratepayers; and

(v) specify the inputs and assumptions used in developing the Risk Report.

(2) (i) The Risk Report shall also include any recommendations of the Office regarding short– and long–term solutions to minimize wholesale energy market and bulk power system financial, resource adequacy, and reliability risks, including strategies to implement any recommendations.

(ii) The recommendations may include:

1. energy generation, transmission, or distribution resource deployment or demand–side management solutions;

2. program development, including:

A. altering or adding to existing programs; or

B. proposing new programs;

3. statutory or regulatory changes; and

4. recommendations to the General Assembly to implement short– and long–term recommendations identified in subparagraph (i) of this paragraph, including:

A. utilizing existing or creating new market structures;

B. utilizing existing or creating new State programs;

C. State financing options, including State procurement and multistate procurement;

D. electric company procurement or programs;

E. examining the mix of in–State generation versus relying on imports and demand–side management; and

F. any other recommendations that the Office considers appropriate.

(iii) If the Office determines that the identified risks are acceptable or that existing market designs, processes, or policies will adequately address the risks identified in the Risk Report, the Office may recommend that no actions be taken.

(iv) The Office shall support the recommendations by analyses that balance affordability, reliability, and greenhouse gas emissions reductions.

§7–1304.

(a) (1) The Office shall:

(i) develop and maintain the tools and resources necessary to complete the analyses required under this subtitle;

(ii) coordinate with PJM Interconnection, LLC to develop and maintain the tools necessary to complete the analyses required under this subtitle;

(iii) have the ability to conduct cost–benefit analyses of energy generation resources in wholesale energy markets; and

(iv) provide an opportunity for stakeholder feedback on any reports developed by the Office.

(2) (i) For the Risk Report required under § 7–1303 of this subtitle, the Office shall conduct a stakeholder process to solicit feedback regarding the development of data inputs that will inform the forecasts and scenarios for developing the Risk Report.

(ii) The Office is not required to utilize the feedback received from the stakeholder process conducted under paragraph (1)(ii) of this subsection, but shall provide documentation of the stakeholder process in the Risk Report.

(3) (i) In addition to the public hearing required in § 7–1306 of this subtitle, after the publication of the Risk Report or any update to the report, the Office shall conduct a stakeholder process to develop a report that assesses strategies to address the identified risks and recommendations in the Risk Report.

(ii) When assessing strategies under subparagraph (i) of this paragraph, there shall be consideration of:

1. new or existing programs;

2. leveraging technology enhancements;

3. revised regulatory structures;

4. State coordination of federal solutions;

5. utilizing market mechanisms; and

6. any other factors considered appropriate.

(b) The Office, in consultation with the Commission and the Maryland Energy Administration, shall complete energy modeling for the Risk Report.

(c) (1) On or before November 1 each year, the Senate Committee on Education, Energy, and the Environment and the House Economic Matters Committee may jointly request the Office to assess up to five policy scenarios.

(2) Not later than 1 year after the date the Office receives a request under paragraph (1) of this subsection, the Office shall submit a report of the results of the requested policy scenarios to the Senate Committee on Education, Energy, and the Environment and the House Economic Matters Committee in accordance with § 2–1257 of the State Government Article.

§7–1305.

(a) On or before September 1, 2028, and every 3 years thereafter, the Office shall submit the Risk Report to the Governor and, in accordance with § 2–1257 of the State Government Article, the General Assembly.

(b) (1) The Office may submit to the Governor and, in accordance with § 2–1257 of the State Government Article, the General Assembly any additional updates to the Risk Report at any time.

(2) The updates shall include:

(i) the status of and any changes to the forecasts and scenarios developed under § 7–1303 of this subtitle;

(ii) information on any new forecasts and scenarios the Office has developed; and

(iii) any other changes to the information or recommendations contained in the report or any preceding updates to the report.

(c) On or before September 1, 2028, and every 3 years thereafter, the Office shall submit to the Governor and, in accordance with § 2–1257 of the State Government Article, the General Assembly the report required under § 7–1304(a)(3) of this subtitle.

§7–1306.

(a) Beginning on or before September 1, 2030, and at least once every 3 years thereafter, after receiving a request by the Office, the Commission, in consultation with the Office, shall conduct a public proceeding to assess the results and recommendations contained in the Risk Report and any updates to the report.

(b) The public proceeding shall include a public hearing and an opportunity for public comment on the recommendations of the Risk Report and any updates to the report.

(c) The Office shall consider any feedback received through the public proceeding and determine if any further changes to the Risk Report are necessary.

(d) The Commission shall consider any feedback received through the public proceeding and determine whether any action under its jurisdiction is warranted.

§7–1307.

(a) This section does not apply to:

(1) the report required under § 7–1304(a)(3) of this subtitle; and

(2) the report required under § 7–1304(c)(2) of this subtitle.

(b) Each report required under this subtitle shall include documentation of stakeholder engagement and any feedback received related to the development of that report.

§8–101.

(a) This subtitle applies to:

(1) a telegraph company; or

(2) a telephone company that owned lines and provided local exchange or interexchange service in the State as of October 1, 1993, with the approval of the Commission.

(b) Except as otherwise provided by law, the provisions of this subtitle are not subject to the jurisdiction of the Commission.

§8–102.

Corporations may be formed as provided in the Corporations and Associations Article to own, lease, construct, or operate telegraph or telephone lines as provided in § 8-103 of this subtitle.

§8–103.

(a) (1) A telegraph or telephone company or a corporation authorized under § 5-410(a)(3) of this article may construct lines:

(i) through the State;

(ii) from or to any point in the State;

(iii) on the boundaries of the State;

(iv) along and on a road, street, or highway; and

(v) across bridges and the waters in the State.

(2) The company may erect fixtures, including poles, piers, or abutments necessary to sustain the lines.

(3) This section does not authorize a company to construct a bridge across any of the navigable waters of the State.

(b) A line constructed under subsection (a) of this section is not a public nuisance and is not subject to abatement by a private party if the line does not interfere with or disturb:

(1) the public use of roads, highways, and bridges;

(2) the navigation of the waters of the State; or

(3) the convenience of a landowner more than is unavoidable.

§8–104.

Notwithstanding the provisions of § 8-103(b) of this subtitle, a telegraph or telephone company or a corporation authorized under § 5-410(a)(3) of this article is responsible for damage a person may sustain through the erection, continuance, or use of telegraph, telephone, or electric facilities.

§8–105.

(a) If, within a reasonable time after due notice, a telegraph or telephone company or a corporation authorized under § 5-410(a)(3) of this article fails or refuses to remove telegraph, telephone, or electric facilities causing damage, the owner or possessor of land or a political subdivision may sue for damages.

(b) (1) If the person filing suit for damages under this section prevails, the company may elect to pay damages for allowing the company to maintain the facilities permanently.

(2) If the damages paid include damages for allowing the company to maintain the facilities permanently, the right of the company to maintain the facilities permanently shall be confirmed as if the right were granted by the parties to the suit.

§8–106.

(a) To obtain an easement, the president and directors of a telegraph or telephone company or a corporation authorized under § 5-410(a)(3) of this article may apply to the circuit court of the county containing the land or bridge where the

telegraph, telephone, or electric facilities will be placed to empanel a jury to appraise the loss or damage that will be sustained by the owner or possessor of the land or bridge.

(b) (1) (i) The jury shall make a return and inquisition in writing that is signed and sealed by each juror.

(ii) The return and inquisition shall state the amount of the loss or damage.

(2) (i) The county sheriff shall return the jury's inquisition to the clerk of the circuit court of the county.

(ii) The clerk shall file the inquisition with the court.

(3) Except as provided in paragraph (4) of this subsection, the court shall confirm the inquisition of the jury and the clerk shall record the inquisition at the expense of the company.

(4) For good cause, the court may set aside the inquisition and direct another inquisition to be taken as provided in this section.

(c) (1) When the value of the loss or damage is paid or tendered to the owner of the land or the legal representative of the owner of the land, the company is entitled to the easement as if the owner of the land conveyed the easement to the company.

(2) If the value is not received when tendered, it may be received at any time without costs by the owner of the land or the legal representative of the owner of the land.

§8–107.

(a) Except as provided in subsection (b) of this section, the owner of timber growing along a telegraph or telephone line is not subject to an action for damages if:

(1) the telegraph or telephone line prevents the owner of the timber from cutting and felling the timber; and

(2) in cutting or felling the timber, the owner damages the telegraph or telephone line.

(b) An owner of timber is subject to an action for damages if, in cutting and felling the timber, the owner willfully and intentionally injures the telegraph or telephone line.

§8–108.

(a) A telegraph company doing business in this State shall:

(1) receive telegrams from and for other telegraph companies and from or for any individual; and

(2) except as provided in subsection (b) of this section, transmit telegrams received:

(i) in the manner established by the rules and regulations of the telegraph company;

(ii) in the order received; and

(iii) with impartiality and good faith.

(b) Subsection (a) of this section does not apply to a telegraph company that makes an arrangement with newspapers for the transmission of information of general and public interest out of the order received for the purpose of publication.

(c) A telegraph company that violates subsection (a) of this section is liable to the person sending or desiring to send the telegram for:

(1) $100 for each instance of neglect or refusal to receive or transmit a telegram; and

(2) the costs of the suit.

§8–201.

(a) (1) In this section the following words have the meanings indicated.

(2) "Economic unit" means all adult individuals contributing to and sharing in the income and expenses of a household.

(3) "Household" means an individual or a group of individuals who are living together at the same address as one economic unit.

(4) "Lifeline" means a nontransferable retail service offering provided directly to qualifying low–income consumers for which qualifying low–income consumers pay reduced charges as a result of federal or State lifeline support.

(5) "Qualifying low–income consumer" means an individual who:

(i) meets the qualifications for lifeline under 47 C.F.R. §§ 54.400, 54.409, and 54.410; and

(ii) is certified to receive lifeline.

(b) Except as provided in subsection (i) of this section, this section applies only to a local telephone company and the provision of local telephone service.

(c) At the direction of the Commission, a local telephone company with more than 10,000 subscribers shall offer lifeline to qualifying low–income consumers subject to the following conditions:

(1) no other local voice telephone service may be provided to the household of the qualifying low–income consumer applying for lifeline; and

(2) an inside wiring maintenance plan is not provided to the qualifying low–income consumer.

(d) (1) A qualifying low–income consumer may select a lifeline under either paragraph (2) or (3) of this subsection.

(2) A qualifying low–income consumer who selects lifeline under this paragraph:

(i) shall receive:

1. an individual residential local exchange access line; and

2. the first 30 residential local untimed messages each billing month at no additional charge;

(ii) shall be charged:

1. 50% of the lowest applicable and approved federal and State tariff rates for the access line and included residential local untimed messages, minus any applicable waiver of federal tariff provisions for qualifying low–income consumers, plus all applicable federal, State, and local taxes;

2. the full applicable tariff rates for all other residential local untimed messages; and

3. the full applicable tariff rates for all other services; and

(iii) may not be provided any premium services, including foreign zone or foreign exchange service.

(3) A qualifying low–income consumer who selects lifeline under this paragraph:

(i) shall receive an individual residential local exchange access line with unlimited residential local untimed messages for a monthly charge of $10; and

(ii) may purchase up to two value–added services at the full applicable tariff rates.

(e) The telephone company shall charge to the qualifying low–income consumer all applicable federal, State, and local taxes and fees.

(f) (1) A telephone company may not require payment of an order processing charge or line change charge to change a qualifying low–income consumer to lifeline from any other class of residential telephone service.

(2) An individual who is no longer a qualifying low–income consumer may not be charged a fee to change from lifeline to any other class of residential telephone service.

(g) (1) A telephone company may not request a deposit to secure payment in connection with the initial installation or connection of lifeline.

(2) A qualifying low–income consumer applying for service may be denied service if the qualifying low–income consumer:

(i) has an outstanding unpaid net telephone debt of $100 or more for prior telephone service; and

(ii) has not established a reasonable payment plan to satisfy the debt.

(3) A qualifying low–income consumer may not be denied service if the qualifying low–income consumer has an outstanding unpaid net telephone debt of less than $100 for prior telephone service.

(h) (1) To the extent allowed by federal and State law, the Department of Human Services shall provide to local telephone companies that offer lifeline monthly electronic access to a file containing a list of qualifying low–income consumers until the Federal Communications Commission or its designee determines eligibility.

(2) To obtain access to the file maintained by the Department of Human Services, a local telephone company must enter into a memorandum of understanding with the Department of Human Services that governs access to use, confidentiality, and retention of the file.

(3) The grant of access to the file satisfies the certification requirement of subsection (a)(5) of this section.

(4) Once the Federal Communications Commission or its designee determines eligibility, that determination will satisfy the certification requirement under subsection (a)(5) of this section.

(i) The Department of Human Services may certify consumers as qualifying low–income consumers if they use services other than local telephone service.

(j) Nothing in this section may be construed to establish jurisdiction by the Commission over wireless services, broadband services, voice over Internet protocol services, or other services that are not provided through telephone lines.

§8–202.

(a) (1) The Commission may not authorize telephone company charges to be levied for directory assistance calls made by residential customers on the first two calls made to directory assistance from each residential service per monthly billing cycle.

(2) Subject to subsection (b) of this section, the Commission shall authorize charges on other directory assistance calls.

(b) The Commission may not authorize telephone company charges to be levied for directory assistance on an individual who suffers from a physical or visual disability that precludes the use of a telephone directory.

§8–203.

(a) (1) The Commission may not authorize mandatory telephone company charges based on a measured time period unit rate for local messages.

(2) The Commission may study or evaluate mandatory telephone company charges.

(b) If the Commission authorizes a telephone company to offer to residential customers the option of telephone charges based on a measured time period unit rate for local messages, the Commission also shall require the telephone company to offer to residential customers:

(1) the option of an unlimited number and duration of local calls; and

(2) the option of a specific charge per local call, regardless of the duration of the local call.

(c) A telephone company may not require the payment of an order processing charge or line change charge for a residential customer's first change from local telephone service based on charges for measured time period unit rates, if the change occurs within 18 months after the date that the consumer elects this telephone service.

(d) The Commission may not authorize a telephone company to charge for the distance of a call within a local calling area.

§8–204.

(a) This section does not apply to:

(1) a unit of federal, State, or local government that uses an automated dialing prerecorded message machine for emergency purposes; or

(2) a person who has a preexisting business relationship with, or the consent of, the person called.

(b) A person may not use an automated dialing, push-button, or tone-activated address signaling system with a prerecorded message to:

(1) solicit persons to purchase, lease, or rent goods or services;

(2) offer a gift or prize;

(3) conduct a poll; or

(4) request survey information if the results will be used directly to solicit persons to purchase, lease, or rent goods or services.

(c) The sender of an automated dialing, push-button, or tone-activated address signaling call shall disconnect the prerecorded message machine from the recipient's telephone line within 5 seconds after the termination of the call by either the person calling or the person called.

(d) A person who violates a provision of subsection (b) or (c) of this section is guilty of a misdemeanor and on conviction is subject to a fine:

(1) not exceeding $1,000 for the first offense; and

(2) not exceeding $5,000 for each subsequent offense.

§8–205.

(a) (1) In this section, "telephone solicitation" means an organized activity, program, or campaign to communicate by telephone with residents of Maryland in order to:

(i) sell, lease, or rent goods or services;

(ii) attempt to sell, lease, or rent goods or services;

(iii) offer or attempt to offer a gift or prize;

(iv) conduct or attempt to conduct a poll; or

(v) request or attempt to request survey information, if the results of the survey will be used directly to solicit persons to purchase, lease, or rent goods or services.

(2) "Telephone solicitation" includes the act of managing, directing, or supervising an individual engaged in telephone solicitation under paragraph (1) of this subsection.

(b) This section does not apply to a unit of federal, State, or local government.

(c) If the telephone service or equipment of a person engaged in telephone solicitation allows that person to choose to restrict or display the transmission of the

person's telephone number to the recipient of a telephone solicitation, the person may not:

(1) intentionally use any device or method to block the transmission of the person's telephone number to a recipient; or

(2) take any other action to prevent or control the transmission of the person's telephone number to a recipient.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is subject to:

(1) for a first offense, a fine not exceeding $1,000; and

(2) for each subsequent offense, a fine not exceeding $5,000.

§8–206.

(a) This section applies to telephone directories distributed by, or on behalf of, a telephone company other than advertisement–based business directories.

(b) A telephone company may not be required to distribute a telephone directory to an address in the State unless the property owner or an occupant requests the telephone directory.

(c) (1) If a telephone company elects not to distribute a print telephone directory to a customer at an address in the State, the telephone company shall provide notice as to how the customer may request a print telephone directory.

(2) The notice required under paragraph (1) of this subsection shall:

(i) include a toll–free telephone number a customer may call to request a print telephone directory; and

(ii) be included:

1. in each customer's bill at least once each year;

2. on the telephone company's website; and

3. in bold red print, on the front cover and the table of contents page of any print advertisement–based business directory distributed on behalf of the telephone company through September 30, 2016.

(3) If a customer requests a print telephone directory, the telephone company shall deliver the print telephone directory to the customer at no cost to the customer.

§8–301.

Except as otherwise provided by law, the provisions of this subtitle are not subject to the jurisdiction of the Commission.

§8–302.

(a) A telephone company doing business in the State that has coin pay telephones located on outdoor sites shall provide a method to place calls to the operator without requiring the insertion of coins into the telephone.

(b) The cost of providing the method of placing calls required in subsection (a) of this section is a reasonable and necessary cost of providing telephone service.

§8–303.

(a) A telegraph company engaged in the business of transmitting communications by telegraph in the State and charging tolls for providing this service shall show conspicuously on each telegram delivered:

(1) under the caption "time filed", the time the telegram was filed at the place of origin for transmission; and

(2) under the caption "time received", the time the telegram was received at the office from which it is to be delivered.

(b) A telegraph company is liable for a fine of not less than $10 and not more than $200 for each telegram it delivers in violation of subsection (a) of this section.

§8–401.

(a) In this subtitle the following words have the meanings indicated.

(b) "Hold order" or "freeze" means a directive to retain:

(1) the telephone company or reseller selected by a customer until the customer provides express authorization for a change to another telephone company or reseller;

(2) for telecommunications service options for which the telephone company or reseller imposes a charge, the telecommunications service options selected by a customer until the customer provides express authorization for a change of telecommunications service options; or

(3) the person who bills the customer or the customer's billing arrangement until the customer provides express authorization for a change of the person who bills the customer or the customer's billing arrangement.

(c) "Reseller" means a person who:

(1) provides telecommunications services to end-use customers by using the transmission facilities of another person, including wire, cable, optical fiber, or satellite or terrestrial radio signals, regardless of whether the reseller possesses its own switching facilities; or

(2) bills an end-use customer or causes the customer to be billed for telecommunications service.

(d) "Telecommunications service" means any service or product provided by a telephone company or reseller that is under the jurisdiction of the Commission.

§8–402.

(a) This subtitle applies to a telephone company or reseller that provides intrastate interLATA, intraLATA, or local exchange carrier telecommunications service.

(b) An act of a person or company that is acting as an agent or representative of a telephone company or reseller is deemed to be an act of the telephone company or reseller under this subtitle.

§8–403.

Each reseller that provides telecommunications service shall obtain authorization from the Commission in a manner determined by the Commission to provide those services in the State.

§8–404.

Unless the telephone company or reseller complies with authorization and confirmation procedures adopted by the Commission and by federal law and regulation, a telephone company or reseller may not, on behalf of a customer:

(1) change, or direct another telephone company or reseller to change, the customer's telephone company or reseller;

(2) select a telecommunications service option for which the telephone company or reseller imposes a charge; or

(3) change the person who bills the customer or the customer's billing arrangement.

§8–405.

(a) This section applies to a telephone company or reseller that initiates an unauthorized change in violation of this subtitle in:

(1) a customer's telephone company;

(2) a customer's reseller;

(3) a customer's telecommunications service options; or

(4) the person who bills the customer or the customer's billing arrangement.

(b) A telephone company or reseller that is subject to this section is liable:

(1) to the customer, the customer's previously selected telephone company or reseller, or both, as determined by the Commission, for all intrastate long distance charges, interstate long distance charges, local exchange service charges, provider switching fees, the value of any premiums to which the customer would have been entitled, and other relevant charges incurred by the customer in the first 30 days of the unauthorized change; and

(2) to the customer's local exchange provider for the change fees for the unauthorized change and reinstating the customer to the original telephone company or reseller.

§8–406.

(a) When a customer, or a telephone company or reseller providing a new telecommunications service on behalf of the customer, makes a change in the customer's telephone company or reseller, the telephone company or reseller providing the new telecommunications service shall provide a conspicuous notice to the customer, informing the customer that the change was made.

(b) When a customer, or a telephone company or reseller on behalf of the customer, makes a change in the customer's selection of a telecommunications service option for which the telephone company or reseller imposes a charge, the telephone company or reseller providing the new telecommunications service option shall provide a conspicuous notice to the customer, informing the customer that the change was made.

(c) When a customer, or a telephone company or reseller on behalf of a customer, makes a change in the person who bills the customer or the customer's billing arrangement, the telephone company or reseller providing the new billing service or arrangement shall provide a conspicuous notice to the customer, informing the customer that the change was made.

(d) A telephone company or reseller that is required to provide notice under this section shall provide the notice by:

(1) inserting the notice on or with the customer's first bill for which the change is effective; or

(2) sending a separate notice to the customer within 30 days after the change takes effect.

(e) A telephone company or reseller may not, on behalf of a customer, fail to make any change in a customer's telephone company, reseller, or telecommunications service options, or in the person who bills the customer or the customer's billing arrangement when the change order has been received in a manner that complies with federal and State rules and regulations. All such change orders shall be properly processed to assure that the order is completed and service will be provided by the new telephone company or reseller of choice within 15 business days of receipt of the compliant change order or as otherwise negotiated with the customer.

§8–407.

(a) If the Commission determines that a hold order or freeze is necessary, the Commission may require a telephone company or reseller that operates the network facilities that control routing, selection, or billing functions necessary to implement the hold order or freeze to offer the hold order or freeze to the telephone company's end-use customers or to the reseller's end-use customers as a method of reducing incidents of unauthorized changes in a customer's telephone company, reseller, or telecommunications service options, or in the person who bills the customer or the customer's billing arrangement.

(b) A telephone company or reseller that is required to offer a hold order or freeze shall implement the hold order or freeze in a nondiscriminatory and

competitively neutral manner that does not give the telephone company or reseller an advantage over its competitors in the telecommunications market.

(c) All regulations regarding the implementation of a hold order or freeze shall be consistent with the rules and regulations of the Federal Communications Commission.

§8–408.

(a) To implement this subtitle the Commission may adopt regulations necessary to carry out the provisions of this subtitle that are consistent with federal law.

(b) The regulations may include:

(1) procedures for a customer to confirm a change in the customer's telephone company or reseller made by another telephone company or reseller on behalf of the customer;

(2) procedures for a customer to confirm a change in telecommunications service options;

(3) procedures for a customer to confirm a change in the person who bills the customer or the customer's billing arrangement;

(4) provisions for the disclosure to the customer of the terms of the services offered by a telephone company or reseller;

(5) methods of enforcement; and

(6) other provisions, not inconsistent with federal law, that the Commission considers necessary to implement this subtitle.

§8–409.

(a) A telephone company or reseller may not fail or neglect to comply with this subtitle or with a regulation adopted under this subtitle.

(b) For the purpose of enforcing the provisions of this subtitle, the Commission may:

(1) exercise any of the powers conferred under this division against a telephone company or reseller; and

(2) in the case of a complaint filed against a telephone company or reseller, order the telephone company or reseller to make reparations to the complaining party in accordance with § 8–405 of this subtitle.

(c) In addition to any other available penalty, the Commission may assess directly, after an opportunity for hearing, an administrative penalty on a telephone company or reseller that violates the provisions of this subtitle, or a regulation adopted under this subtitle, or federal law or regulation on unauthorized changes to a customer's telephone company, reseller, or telecommunications service options, or to the person who bills the customer or the customer's billing arrangement.

(d) The administrative penalty assessed under this section may not exceed $1,000 for each violation associated with a specific access line in the State.

(e) In assessing an administrative penalty under this section, the Commission shall consider:

(1) the nature, circumstances, extent, gravity, and number of violations;

(2) the degree of culpability of the violator;

(3) prior offenses and repeated violations of the violator; and

(4) any other matter that the Commission considers appropriate and relevant.

(f) An administrative penalty collected under this section shall be paid into the General Fund of the State.

§8–501.

(a) The Commission may, after notice and public hearing, adopt policies and regulations governing the development of competition in the telecommunications services market.

(b) Policies and regulations adopted by the Commission under this section shall be consistent with federal law, policies and regulations of the Federal Communications Commission, Title 4 of this article, and any other applicable provisions of Maryland law.

§8–601.

In this subtitle:

(1) "voice over Internet protocol service" or "VoIP service" means any service that:

(i) enables real–time two–way voice communications that originate from or terminate to the subscriber end user's location requiring Internet protocol or any successor protocol to Internet protocol; and

(ii) requires a broadband connection from the user's location; and

(2) "voice over Internet protocol service" or "VoIP service" includes any such service that permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.

§8–602.

(a) The Commission does not have jurisdiction over the regulation of VoIP service, including the imposition of regulatory fees, certification requirements, and the filing or approval of tariffs.

(b) Nothing in this subtitle may be construed to:

(1) require or prohibit the assessment of 9–1–1 fees in accordance with § 1–310 of the Public Safety Article on VoIP;

(2) require or prohibit the assessment of fees for telecommunications relay service under Title 3, Subtitle 8 of the State Finance and Procurement Article;

(3) require or prohibit the payment of any switched network access rates or other intercarrier compensation rates that may be determined to apply;

(4) relieve a company that is otherwise subject to § 8–201 of this title of its obligation to provide telephone lifeline service over local exchange access lines that are subject to the Commission's jurisdiction;

(5) exempt VoIP service from generally applicable State and federal laws relating to public safety, consumer protection, and unfair and deceptive trade practices, or to exempt VoIP service from the authority of the Division of Consumer Protection in the Office of the Attorney General; or

(6) remove the Commission's jurisdiction over circuit switched local exchange access service.

(c) A company that moves a customer from a Commission–approved tariff service to VoIP service shall notify the customer that the Commission does not have jurisdiction over the regulation of VoIP service and that complaints about VoIP service may be filed with the Division of Consumer Protection in the Office of the Attorney General.

§9–101.

(a) Each common carrier shall provide reasonable, proper, and equal facilities for the prompt interchange and transfer of passengers between its lines and the lines of every other common carrier.

(b) A common carrier may not discriminate against other common carriers in transferring, receiving, or forwarding passengers to or from other common carriers.

(c) A common carrier is not required to allow any other common carrier to use its tracks or terminal facilities.

§9–102.

Unless the Commission orders otherwise, a common carrier may not charge or receive an equal or greater compensation in the aggregate to transport passengers under substantially similar circumstances for a shorter distance than for a longer distance over the same line and in the same direction.

§9–103.

(a) The Commission shall prescribe a form of tariff schedules for common carriers that is as nearly as practicable the same as that required by the Surface Transportation Board for the particular kind of carrier.

(b) In addition to other information that the Commission requires, the tariff schedules of each common carrier shall show:

(1) all of the current rates, fares, and charges, including those specified in § 4-503 of this article, for the transportation of passengers within the State between:

(i) each point on the common carrier's route and all other points on the other routes it owns; and

(ii) each point on the common carrier's route and all points on the route of each other common carrier that is shown in the schedule whenever a through route or joint rate is established between those points;

(2) the points between which passengers will be carried;

(3) the classification of passengers;

(4) the privileges or facilities granted; and

(5) all rules and regulations that may change, affect, or determine any part of the aggregate of the rates, fares, or charges or the value of the service rendered.

(c) Each common carrier that is a party to a joint rate shown in the tariff schedule of another common carrier shall file with the Commission evidence of acceptance of the joint rate, as required by the Commission.

§9–201.

(a) Except as provided in subsection (b) of this section, a motor carrier permit is required for a passenger motor vehicle used in the transportation of persons for hire.

(b) A motor carrier permit is not required for:

(1) a motor vehicle used exclusively for the transportation of pupils to and from public or private schools;

(2) a motor vehicle operated for a period of not more than 3 months in any registration year in the transportation of persons employed at a cannery located in a county;

(3) taxicabs;

(4) public transportation for hire authorized to operate on the boardwalk in Ocean City;

(5) a vanpool operation as defined in § 11–175.1 of the Transportation Article;

(6) a local public transportation system established under a law enacted by the local governing body of a county or municipal corporation;

(7) subject to subsection (c) of this section, a motor vehicle used by a privately owned transportation company exclusively to provide transportation system services under a contract with the governing body of a county or municipal corporation or with a unit of State government;

(8) shuttle bus service operated by the University of Maryland, College Park Campus for students enrolled at the University of Maryland, College Park Campus and, in exchange for payment by a municipal corporation in which the University of Maryland, College Park Campus operates shuttle bus service, transportation service on the shuttle bus to residents of the municipal corporation; or

(9) transportation services that a nonprofit organization provides through the use of a volunteer driver and the volunteer driver's personal vehicle.

(c) A privately owned transportation company that provides transportation system services under a contract with the governing body of a county or municipal corporation or with a unit of State government shall obtain a motor carrier permit for motor vehicles that the company does not use exclusively to provide transportation system services under a contract with the governing body of a county or municipal corporation or with a unit of State government.

(d) The public duties of a common carrier may not be imposed on a person with respect to a vehicle for which a motor carrier permit is required under this section, if the vehicle is not actually engaged in public transportation.

§9–202.

A motor carrier permit may not be issued unless the Commission, after considering the number of vehicles the applicant will use, the rate the applicant will charge, the potential demand, the qualifications of the applicant, and any other factors that the Commission considers relevant, determines that the issuance of a motor carrier permit will be best for the public welfare and convenience.

§9–203.

(a) Subject to subsections (b) and (c) of this section, the Commission may subject a motor carrier permit to terms and conditions that the Commission considers appropriate.

(b) The duration of a motor carrier permit may not exceed 20 years.

(c) The Commission may authorize seasonal motor carrier permits for a part of the year.

§9–204.

The Commission may suspend, revoke, or subsequently deny a motor carrier permit if the holder violates a provision of this division.

§9–205.

(a) (1) A route or schedule of a motor vehicle for which a motor carrier permit is granted may not be changed or abandoned without written permission from the Commission.

(2) The Commission may only grant permission under paragraph (1) of this subsection if the Commission finds that the public welfare and convenience are not prejudiced by the change.

(3) Notwithstanding paragraph (1) of this subsection, the holder of a motor carrier permit may temporarily operate substitute or reserve vehicles, when necessary in an emergency, to maintain the required schedules over the holder's route.

(b) This subtitle does not limit the power of a municipal corporation to adopt reasonable traffic regulations, including the power to:

(1) designate streets; and

(2) prohibit the use of certain streets or the parking of vehicles on those streets if the use or parking may threaten public safety or unduly congest traffic.

§9–206.

(a) The owner and operator of an intrastate motor bus carrier shall prohibit the smoking of tobacco products while the bus is in public service.

(b) A person may not smoke tobacco products on a bus of an intrastate motor bus carrier.

(c) The Commission may adopt regulations to carry out the provisions of this section.

(d) A person who violates a provision of this section is subject to a civil penalty not exceeding $25.

§9–207.

(a) This section applies to a motor carrier providing transportation for hire by or through contract with a public authority, or a federal, State, district, or municipal transportation agency.

(b) A motor carrier subject to this section:

(1) is also subject to §§ 5–101 and 5–304 of this article; and

(2) except as provided in § 9–201(b)(7) of this subtitle, shall obtain a motor carrier permit under § 9–201 of this subtitle.

(c) A motor carrier permit issued to a motor carrier subject to this section may be:

(1) subject to conditions under § 9–203 of this subtitle; and

(2) suspended, revoked, or subsequently denied under § 9–204 of this subtitle.

(d) Except as provided in this section, the provisions of this division do not apply to a motor carrier subject to this section.

§9–208.

(a) This section does not apply to a motor coach that is licensed by the Commission to provide transportation of persons for hire.

(b) A nonprofit entity that owns and operates a motor coach with a capacity of at least 30 passengers and gross vehicle weight rating of at least 32,000 pounds shall obtain a license for the motor coach from the Commission.

(c) The nonprofit entity shall have the motor coach inspected for safety every 12 months by an authorized Maryland inspection station.

(d) A motor coach that is licensed under this section and only provides service for or on behalf of a nonprofit entity is not subject to tariffs or rate making under this division.

§9–301.

In this subtitle, "Maryland railroad company" means a railroad company organized under the laws of this State.

§9–302.

Except as otherwise provided by law, the provisions of this subtitle are not subject to the jurisdiction of the Commission.

§9–303.

(a) (1) Except as provided in paragraph (2) of this subsection, a Maryland railroad company may locate, construct, maintain, and operate a railroad in the State if the railroad is not more than 100 feet wide at the graded surface.

(2) A railroad may be wider than 100 feet if the Maryland railroad company determines that it is necessary for:

(i) cuts and fills for a slope or embankment;

(ii) multiple sets of tracks; or

(iii) sidetracks, turnouts, depots, buildings, and other works connected with the operation of the railroad.

(b) (1) A Maryland railroad company may acquire land and other property that it determines is convenient or necessary for the site of the railroad or for additions to the railroad by:

(i) purchase, either in fee simple or any lesser estate, in accordance with law; or

(ii) condemnation under Title 5, Subtitle 4 of this article and Title 12 of the Real Property Article.

(2) A Maryland railroad company may acquire by purchase or gift lands near the railroad that it determines are necessary to secure the right-of-way or aid in the construction of the railroad.

(c) (1) Land that a Maryland railroad company acquires may be held or conveyed as determined by the board of directors of the Maryland railroad company.

(2) Deeds and conveyances made by a Maryland railroad company shall be signed by the president of the company under its corporate seal.

(d) This section does not authorize a Maryland railroad company to condemn, use, or occupy any part of a highway, including the space under or over a

highway, without the consent of the proper authorities of the municipal corporation or county where the highway is located.

§9–304.

(a) (1) A Maryland railroad company may cross or divert an unnavigable stream whenever it is necessary to construct a railroad.

(2) A Maryland railroad company that diverts a stream is liable for damage caused by the diversion.

(b) A Maryland railroad company may cross a canal or a navigable stream if the company:

(1) submits to the Board of Public Works a plan for the canal or stream crossing that includes the location and building plans of the bridge and other necessary fixtures; and

(2) receives written approval from the Board of Public Works.

(c) (1) If the Board of Public Works disapproves a plan submitted by a Maryland railroad company or fails to approve the plan within 20 days after filing, the Maryland railroad company may apply to the circuit court of the county where the canal or stream crossing is planned or to another court of competent jurisdiction.

(2) The court shall:

(i) provide reasonable notice to the Board of Public Works;

(ii) for good cause shown, appoint a disinterested and competent engineer, who does not reside in a county through which the Maryland railroad company's railroad passes and who, within 20 days of being appointed:

1. shall examine the canal or stream crossing; and

2. shall establish a plan and any conditions necessary to cross the canal or stream in a way that will not impede navigation; and

(iii) examine the engineer's plan and conditions for the canal or stream crossing, and unless good cause is shown, approve the plan and conditions.

(3) An order by the court approving the plan and conditions for the canal or stream crossing shall be sufficient authority for the Maryland railroad company to elect, use, and occupy the bridge.

§9–305.

(a) (1) Whenever necessary in the construction of a railroad, a Maryland railroad company may cross the tracks of another railroad company.

(2) Crossings may be made at, over, or under grade.

(b) If a Maryland railroad company is unable to agree on the terms for a crossing with the railroad company whose track is to be crossed, then the Maryland railroad company may condemn the easement of the crossing under § 5-405 of this article.

(c) (1) A Maryland railroad company that constructs a crossing at grade shall:

(i) at its own expense, erect a proper signal station at the crossing and keep a watchman there; and

(ii) give precedence to the trains of the railroad company whose tracks are crossed.

(2) A Maryland railroad company that constructs an undergrade or overgrade crossing shall construct the crossing so as not to interfere with the passage of the trains of the railroad company whose tracks are being crossed.

§9–306.

(a) (1) A Maryland railroad company may:

(i) cross or divert a highway whenever necessary for the construction of a railroad;

(ii) at its own cost and expense, carry a highway over its track by an overgrade crossing, or under its track by an undergrade crossing if the Maryland railroad company considers that the highway crossing is dangerous; and

(iii) exercise the powers of condemnation, under Title 5, Subtitle 4 of this article and Title 12 of the Real Property Article, to acquire additional property and rights necessary to construct an overgrade or undergrade crossing.

(2) Whenever a Maryland railroad company crosses or diverts a highway, it shall, without necessary delay, return the highway to its former usefulness.

(b) (1) Overgrade and undergrade crossings shall be at least 20 feet wide, and the grades approaching the crossings may not be greater than a rise of 6 feet in one hundred.

(2) The height of an undergrade crossing from the surface of the roadway shall be at least 14 feet.

(3) When constructing the approaches to an overgrade or undergrade crossing, the Maryland railroad company may change the grade of the road or highway to be carried on the new crossing.

(4) If the grade is changed under paragraph (3) of this subsection:

(i) the grade change of the road shall be at the expense of the Maryland railroad company; and

(ii) the Maryland railroad company has the same rights and liabilities that county officials have in changing the grades of public highways.

(c) (1) Except as provided in paragraph (2) of this subsection, whenever a Maryland railroad company constructs an overgrade or undergrade crossing, all grade crossings within 600 yards of the new crossing may be closed by the Maryland railroad company and another crossing may not be opened within 600 yards of the new crossing.

(2) The prohibition against the maintenance and opening of a grade crossing within 600 yards of a newly constructed overgrade or undergrade crossing does not apply:

(i) in a municipal corporation, without the consent of the mayor and council; and

(ii) in an unincorporated area of a county with a population of 2,000 or more people, without the consent of the local governing body.

§9–307.

If the right-of-way or location of any part of an unfinished railroad remains unused for railroad purposes for 10 years or longer, the right-of-way or location is deemed abandoned and may be purchased or condemned by a railroad company under Title 5, Subtitle 4 of this article and Title 12 of the Real Property Article.

§9–308.

(a) Subject to § 6-101(c) of this article, a Maryland railroad company may acquire, own, hold, pledge, sell, dispose of, endorse, guarantee, or assume the stocks, bonds, and other securities of:

(1) a Maryland railroad company;

(2) a railroad company of any other state; and

(3) an inland, coast, or ocean transportation company.

(b) A Maryland railroad company may own and operate a line of steamships or steamboats if they can be used wholly or partly, in connection with the business of the Maryland railroad company.

§9–309.

(a) The presumption of negligence established in this section does not apply if:

(1) the damages or injuries were caused by a fire that occurred in or about a railroad terminal that receives, delivers, or transhipsfreight; and

(2) the fire may have resulted from the negligence of an individual who works in or about the terminal but is not employed by or under the control of the railroad company.

(b) Unless a railroad company proves that damages or injuries were not the result of any negligence on the part of the company, a railroad company is liable in a civil action for:

(1) injuries to livestock that occur on the company's tracks; and

(2) damages that result from a fire that originated from the company's engines or cars.

§9–310.

(a) A railroad that crosses or connects with another railroad may use the track or roadway of the other railroad, for up to 5 miles, to move locomotives, cars, and tonnage.

(b) The rate of tolls that a railroad charges under this section for locomotives, cars, and tonnage may not exceed the rate per ton per mile, or

proportionate part of a mile used, that the railroad charges for through freight per ton per mile.

(c) A railroad company that violates this section is liable to an aggrieved party in a civil action for an amount not less than $500 and not exceeding $1,000 for each day of noncompliance.

§9–311.

(a) (1) At least 30 days before making a determination, the local governing body of a county shall notify a railroad company that the county will consider the need to protect a railroad crossing over a public highway if:

(i) the crossing is in the county but outside of a municipal corporation;

(ii) the crossing is at grade; and

(iii) the highway is believed to be of a character as to render dangerous the passage of locomotives and trains on it.

(2) A county shall give the notice by serving written notice on the superintendent or other agent of the railroad company in the county.

(3) After the 30-day period, the local governing body of a county may determine that protection is necessary at the crossing.

(4) The county shall notify the railroad company through its superintendent or ticket agent in the county that, within 60 days, the railroad company shall:

(i) place a flagman or a system of electric alarm bells at the crossing to give timely notice to all persons using the crossing of the approach of trains;

(ii) erect safety gates at the crossing that shall be closed not less than one-half minute before the passage and during the passage of a train; or

(iii) change the crossing at grade to an undergrade or overgrade crossing.

(b) If a railroad company does not comply with the requirements of a county under subsection (a)(4) of this section, the railroad company is subject to a fine of $25 per day for each day that the company is not in compliance.

(c) (1) As other fines are collected, the local governing body of a county shall enforce the payment of fines imposed by subsection (b) of this section in the circuit court for the county.

(2) The State's Attorney of the county shall prosecute under this subsection when the local governing body of the county so directs.

§9–312.

(a) Each safety gate at a grade crossing in the State shall have reflectors of sufficient size to ensure visibility at night.

(b) The Secretary of Transportation shall adopt regulations to carry out this section.

(c) A railroad company that does not comply with an order of the Secretary of Transportation to provide or maintain reflectors under this section is subject to a fine of $100 per day for each day that the company is not in compliance.

§9–313.

(a) At each place where its tracks cross a public highway, a Maryland railroad company shall erect signs high enough to allow all vehicles to pass and with large and distinct letters that warn of the proximity of the railroad crossing and of the necessity to look for trains.

(b) A Maryland railroad company that neglects or refuses to comply with the requirements of this section is liable for any resulting injuries to individuals or damages to property.

§9–401.

(a) Unless the Commission orders otherwise, a railroad company shall have sufficient cars and motive power to meet all requirements that reasonably may be anticipated to transport passengers, property, and freight.

(b) (1) If a railroad company does not have sufficient cars to meet the demand to transport freight in carload lots, the railroad company shall distribute available cars to shippers that apply.

(2) Except for giving priority to transporting livestock or perishable property, a railroad company may not discriminate in any way, including preferences

as to shippers, localities, or competitive or noncompetitive points, when supplying cars under this section.

§9–402.

(a) This section does not affect the duties of a railroad company or the powers of the Commission regarding joint rates.

(b) A railroad company shall receive freight cars of proper standard from other railroad companies at connecting points and haul the cars:

(1) to their destination; or

(2) by the route billed, to the connecting point with the next connecting carrier.

(c) Except on terms and conditions that the Commission establishes, railroad companies may not be required to interchange cars.

§9–403.

(a) If safe to install, reasonably practicable, and justified by the volume of business, a railroad company, on the application of a shipper, shall construct, maintain, and operate on reasonable terms:

(1) a switch connection or a connection with a lateral line of railroad or private sidetrack owned by the shipper; or

(2) a sidetrack and switch connection for the shipper on property owned by the railroad company.

(b) The Commission shall regulate installation, maintenance, and compensation under this section.

(c) A railroad company may terminate connections that it provides under this section if the Commission determines that the required conditions are no longer satisfied.

§10–101.

(a) In this title the following words have the meanings indicated.

(b) "Central Repository" has the meaning stated in § 10-201 of the Criminal Procedure Article.

(c) "Criminal Justice Information System" has the meaning stated in § 10-201 of the Criminal Procedure Article.

(d) "For-hire driver's license" includes:

(1) a passenger-for-hire license; and

(2) a taxicab driver's license.

(e) (1) "Limousine service" means operating a motor vehicle for hire using a motor vehicle classified as a Class Q (limousine) vehicle under § 13–939 of the Transportation Article.

(2) "Limousine service" does not include providing taxicab services, sedan services, or transportation network services.

(f) (1) "Operate a motor vehicle for hire" means to transport or offer to transport a person in a motor vehicle in exchange for remuneration.

(2) "Operate a motor vehicle for hire" includes:

(i) providing passenger-for-hire services; and

(ii) providing taxicab services.

(g) "Provide passenger–for–hire services" includes:

(1) providing limousine services;

(2) providing sedan services; and

(3) providing transportation network services.

(h) "Provide taxicab services" means to operate a motor vehicle for hire that, in addition to other services:

(1) is advertised or held out to the public as a taxicab or as providing taxicab services;

(2) regardless of how or when engaged, provides for-hire service between points chosen by the passenger and for a fare that is based on the distance traveled, the time elapsed, or both; or

(3) is engaged by the passenger for service between points chosen by the passenger that is provided through:

(i) hail from the street or other location; or

(ii) request made at a taxi stand or other location where the motor vehicle is standing and waiting for a request for service.

(i) "Remuneration" includes:

(1) a fare;

(2) a fee;

(3) a toll;

(4) a gratuity; and

(5) personal services.

(j) (1) "Sedan service" means operating a motor vehicle for hire using a motor vehicle designed to carry 15 or fewer individuals, including the driver.

(2) "Sedan service" does not include providing taxicab services, limousine services, or transportation network services.

(k) "Taxicab driver's license" means a license issued by the Commission to an individual that provides taxicab services.

(l) "Transportation network company" means a company that operates in the State using a digital network to connect passengers to transportation network operators or transportation network partners for transportation network services.

(m) "Transportation network operator", "transportation network partner", or "transportation network driver" means an individual who:

(1) has been issued a transportation network operator's license, or is otherwise authorized, by the Commission to provide transportation network services;

(2) receives, through a transportation network company's digital network application, a connection to a potential passenger to transport the passenger between points chosen by the passenger in exchange for the payment of a fee to the transportation network company; and

(3) uses a motor vehicle that is owned, leased, or otherwise authorized for use by the individual and is approved for use in providing transportation network services by the Commission.

(n) (1) "Transportation network services" means the activities of an operator during:

(i) transportation network coverage period one, during which the operator is logged onto and ready to accept a prearranged ride request made through a transportation network company's digital network application;

(ii) transportation network coverage period two, during which the operator accepts a ride request from a passenger that is prearranged through a transportation network company's digital network application, and is traveling to a predetermined location to pick up the passenger; and

(iii) transportation network coverage period three, during which the operator transports the passenger and continuing until the passenger departs the motor vehicle.

(2) "Transportation network services" does not include:

(i) providing taxicab services, sedan services, or limousine services;

(ii) any shared expense carpool arrangement or service or other type of arrangement or service in which a driver receives a fee that does not exceed the driver's costs associated with providing a ride; or

(iii) transportation services that a nonprofit organization provides through the use of a volunteer driver and the volunteer driver's personal vehicle.

§10–102.

(a) This subtitle supplements other law relating to the operation and licensing of motor vehicles.

(b) This title applies to any motor vehicle used in the transportation of persons in exchange for remuneration except:

(1) motor vehicles designed to transport more than 15 persons; and

(2) transportation solely provided by or on behalf of a unit of federal, State, or local government, or a nonprofit organization as identified in § 501(c)(3) and (4) of the Internal Revenue Code, that requires a criminal history records check and driving record check for its drivers, for clients of services including:

(i) aging support;

(ii) developmental and other disabilities;

(iii) kidney dialysis;

(iv) Medical Assistance Program;

(v) Head Start;

(vi) Welfare–to–Work;

(vii) mental health; and

(viii) job training.

(c) Subsection (b)(2) of this section may not be construed to limit the application of this title or Title 9 of this article to a for–hire driver or other person who operates a motor vehicle for hire or provides transportation of persons for hire in addition to providing transportation services to clients of services listed in subsection (b)(2) of this section.

(d) Notwithstanding subsection (b)(2) of this section:

(1) a nonprofit organization that provides transportation for remuneration to clients of services listed in subsection (b)(2) of this section may not be required to obtain a motor carrier permit under Title 9 of this article; and

(2) a driver employed by the nonprofit organization may not be required to obtain a for–hire driver's license or other authorization from the Commission to perform transportation services solely under subsection (b)(2) of this section.

(e) (1) A driver employed or offered employment by a governmental unit or nonprofit organization under subsection (b)(2) of this section shall apply to the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services for a State criminal history records check on or before the first day of the driver's actual employment.

(2) As part of the application for a State criminal history records check, the driver employed or offered employment by the governmental unit or nonprofit organization shall submit to the Central Repository:

(i) one complete set of the driver's legible fingerprints taken on a form approved by the Secretary of Public Safety and Correctional Services; and

(ii) the fee authorized under § 10–221(b)(7) of the Criminal Procedure Article for access to State criminal history records.

(3) (i) In accordance with Title 10, Subtitle 2 of the Criminal Procedure Article, the Central Repository shall provide a printed statement listing the driver's criminal convictions to:

1. the governmental unit or nonprofit organization; and

2. the driver.

(ii) If criminal history record information is reported to the Central Repository after the date of the initial criminal history records check, the Central Repository shall provide a revised printed statement listing the driver's criminal convictions to:

1. the governmental unit or nonprofit organization; and

2. the driver.

(4) In accordance with regulations adopted by the Department of Public Safety and Correctional Services, the governmental unit or nonprofit organization shall verify periodically a list of its drivers.

(5) Information the governmental unit or nonprofit organization obtains from the Central Repository under this subsection shall be:

(i) confidential and may not be redisseminated; and

(ii) used only for the employment purpose authorized by this section.

(6) In accordance with § 10–223 of the Criminal Procedure Article, a driver employed by a governmental unit or nonprofit organization may challenge the

contents of a printed statement or revised printed statement issued by the Central Repository.

(f) This subtitle does not limit the power of a political subdivision of the State to adopt reasonable traffic regulations such as:

(1) the designation of taxicab stands; and

(2) the restriction or prohibition of cruising along a public street when the cruising would menace the public safety or unduly congest traffic.

§10–103.

(a) Except as provided in subsections (b) and (c) of this section, a person may not operate a motor vehicle for hire in the State under a permit or authorization to transport passengers issued by the Commission or the appropriate local authority unless the person holds a for–hire driver's license or a transportation network operator's license issued by the Commission.

(b) (1) A county or municipal corporation may license taxicab drivers who drive taxicabs that are based in that county or municipal corporation if, at a minimum, the county or municipal corporation conducts a criminal record check and driving record check of each applicant for a license.

(2) A taxicab driver licensed by a county or municipal corporation is not required to be licensed by the Commission.

(c) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Washington Metropolitan Area Transit District" means the transit district created under § 10–204 of the Transportation Article and includes, for the State, Montgomery and Prince George's counties and the political subdivisions located within those counties.

(iii) "WMATC" means the Washington Metropolitan Area Transit Commission created under § 10–204 of the Transportation Article.

(2) A person providing transportation network services in the portion of the Washington Metropolitan Area Transit District located within the State must hold a transportation network operator's license issued by the Commission unless the person is providing a trip for which WMATC requires a certificate of authority.

§10–104.

(a) (1) An applicant for a for–hire driver's license shall:

(i) submit to the Commission a completed application on the form that the Commission provides;

(ii) state on the form that the applicant is applying for a passenger–for–hire driver's license or a taxicab driver's license;

(iii) pay to the Commission an application fee set by the Commission;

(iv) 1. if the applicant is a Maryland driver, allow the Commission access to the driver's photograph through the Motor Vehicle Administration; or

2. file with the application a recent photograph in a format that the Commission specifies; and

(v) apply to the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services for a State criminal history records check as provided in subsection (b) of this section.

(2) The Commission shall:

(i) require a driving record check of the applicant;

(ii) attach a photograph to the for–hire driver's license when issued; and

(iii) file a photograph with the for–hire driver's record.

(b) (1) As part of the application for a criminal history records check, the applicant shall submit to the Central Repository:

(i) one complete set of the applicant's legible fingerprints taken on forms approved by the Director of the Central Repository; and

(ii) the fee authorized under § 10–221(b)(7) of the Criminal Procedure Article for access to Maryland criminal history records.

(2) (i) In response to an application for an initial criminal history records check, the Central Repository shall provide to the Commission and the applicant a printed statement of the applicant's State criminal record.

(ii) If criminal history record information is reported to the Central Repository after the date of the initial criminal history records check, the Central Repository shall provide to the Commission and the applicant or licensee a revised printed statement of the applicant's or licensee's State criminal record.

(3) In accordance with regulations adopted by the Department of Public Safety and Correctional Services, the Commission shall verify periodically a list of licensed for–hire drivers.

(4) Information the Commission obtains from the Central Repository under this subsection shall be:

(i) confidential and may not be redisseminated; and

(ii) used only for the licensing purposes described in this title.

(5) (i) As provided by this paragraph, an applicant for a for–hire driver's license or a licensee may contest the contents of a printed statement or a revised printed statement issued by the Central Repository.

(ii) To contest the contents of a printed statement or a revised printed statement, an applicant or a licensee shall contact the office of the Secretary of Public Safety and Correctional Services, or the Secretary's designee.

(iii) The Secretary of Public Safety and Correctional Services, or the Secretary's designee, shall:

1. convene a hearing within 20 workdays, unless subsequently waived by the applicant or the licensee; and

2. render a decision within 5 workdays after the hearing.

(iv) For the purposes of this paragraph, the record of a court disposition or a copy of the record certified by the clerk of the court or by a judge of the court in which the disposition occurred shall be conclusive evidence of the disposition.

(v) In a case where a pending charge is recorded, documentation provided by a court to the Secretary of Public Safety and Correctional Services, or the Secretary's designee, that a pending charge for a crime which has not been finally adjudicated shall be conclusive evidence of the pending charge.

(vi) Failure of the applicant or a licensee to appear at the scheduled hearing shall be considered grounds for dismissal of the contest.

(6) (i) In addition to a State criminal history records check under this subsection, and subject to Title 10, Subtitle 2 of the Criminal Procedure Article, the Commission may require an applicant to obtain a criminal history records check from the Federal Bureau of Investigation, through the Department of Public Safety and Correctional Services.

(ii) An applicant who is required by the Commission to obtain a criminal history records check from the Federal Bureau of Investigation under subparagraph (i) of this paragraph shall:

1. apply to the Central Repository of the Department of Public Safety and Correctional Services for a national criminal history records check;

2. submit to the Central Repository one complete set of the applicant's legible fingerprints taken on forms approved by the Director of the Federal Bureau of Investigation; and

3. submit to the Central Repository the mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(7) The Commission may use a private agency to provide a background check on an applicant or licensee under this section, as determined by the Commission.

(c) (1) After the initial printed statement has been received from the Central Repository, the Commission shall issue a passenger–for–hire driver's license or a taxicab driver's license, as appropriate, to each applicant that meets the requirements of this title.

(2) The passenger–for–hire driver's license and the taxicab driver's license shall be in the form that the Commission provides.

(d) The Commission may deny an applicant a license or suspend or revoke the license of a licensee if the applicant or licensee has been convicted of a crime that bears a direct relationship to the applicant's or licensee's fitness to serve the public as a for–hire driver.

§10–104.1.

(a) An applicant for a for–hire driver's license may not provide sedan services, limousine services, or taxicab services unless the Commission has authorized the applicant to operate on a provisional basis or has issued a valid temporary or permanent driver's license to provide sedan services, limousine services, or taxicab services.

(b) The Commission may approve an applicant and issue a temporary driver's license to the applicant if:

(1) the applicant provides all information that the Commission requires for the application, including the information specified in item (2) of this subsection; and

(2) the Commission is satisfied with the successful submission of the applicant's:

(i) national criminal history records check:

1. conducted by a consumer reporting agency as defined under § 14–1201 of the Commercial Law Article or a comparable entity approved by the Commission; and

2. that includes:

A. a Multi–State Multi–Jurisdiction Criminal Records Database Search or a search of a similar nationwide database with validation;

B. a search of the Sex Offender Registry; and

C. a search of the U.S. Department of Justice's National Sex Offender Public website; and

(ii) driving record check that includes a driving history research report.

(c) (1) Subject to subsection (d) of this section, the Commission may issue a permanent for–hire driver's license to an applicant on the submission of a satisfactory supplemental criminal background check as set forth under § 10–104(b) of this subtitle.

(2) For taxicab services, the applicant must submit, within 30 days of the issuance of a temporary license, a satisfactory supplemental criminal background check as set forth under § 10–104(b) of this subtitle.

(d) Before December 15, 2016, the Commission may not require an applicant for a for–hire driver's license to comply with subsection (c) of this section if a sedan company or limousine company for which the applicant will provide services, at the time it applies for a permit, provides to the Commission details of the process the sedan company or limousine company uses to collect, review, and submit the information specified in subsection (b)(2) of this section.

(e) (1) A sedan company or limousine company may request that the Commission waive the requirement to comply with subsection (c) of this section and instead comply with subsection (b)(2) of this section for applicants and drivers of the sedan company or limousine company.

(2) On receipt of a request under paragraph (1) of this subsection, the Commission shall:

(i) determine whether the sedan company's or limousine company's process for complying with subsection (b)(2) of this section can be shown to be as comprehensive and accurate as complying with the supplemental criminal background check as set forth under § 10–104(b) of this subtitle; and

(ii) within 3 months after receiving the request, determine whether to:

1. grant the waiver;

2. deny the waiver; or

3. approve an alternative process.

(f) A sedan company, limousine company, or taxicab company may submit the information under subsection (b) of this section on behalf of an applicant.

(g) The Commission shall adopt regulations that provide a process that is as expeditious as possible and uses electronic means for:

(1) the submission of the information under subsection (b) of this section;

(2) the issuance of a temporary or permanent driver's license and alternative authority to operate on a provisional basis; and

(3) the renewal of a driver's license.

(h) (1) Records or information provided to the Commission by a sedan company, limousine company, or taxicab company under this section are not subject to release under the Maryland Public Information Act.

(2) The Commission may not disclose records or information provided to the Commission under this section to any person unless the disclosure is required by court order or order of the Maryland Tax Court.

(3) On notice that a person is seeking records or information under paragraph (2) of this subsection, the Commission shall promptly notify the sedan company, limousine company, or taxicab company before disclosing the records or information.

§10–105.

(a) After an administrative review, the Commission shall deny an application for a license if the public convenience and necessity requires the denial because of:

(1) the physical or mental condition of the applicant; or

(2) the criminal record of the applicant.

(b) (1) If an applicant's application for a license is denied under subsection (a) of this section, the applicant may request a hearing by the Commission.

(2) The Commission may have the license hearing officer conduct the hearing in accordance with § 10-110 of this subtitle.

(c) If the Commission refuses to issue a license, the applicant may seek judicial review of the refusal under Title 3, Subtitle 2 of this article.

§10–106.

(a) The term of a for-hire driver's license is not less than 1 year and not more than 3 years, as the Commission sets.

(b) (1) An applicant for a renewal of a for-hire driver's license shall submit to the Commission an application on the form that the Commission provides.

(2) The Commission may renew the for-hire driver's license by appropriate endorsement on the license.

(c) The Commission shall keep on file with the original application of a driver a complete record of:

(1) each for-hire driver's license issued to the driver; and

(2) any renewal, suspension, and revocation of a for-hire driver's license issued to the driver.

§10–107.

The Commission may issue a temporary license and, if applicable, a badge to an applicant for a period not exceeding 30 days.

§10–108.

(a) A for-hire driver shall have the for-hire driver's license in the driver's possession whenever operating a motor vehicle for hire.

(b) (1) A for-hire driver may not deface, remove, or obliterate an official entry made on the for-hire driver's license.

(2) A violation of this subsection shall be punished by suspension or revocation of the for-hire driver's license as provided under § 10-110 of this subtitle.

§10–109.

If a passenger elects to use a route where a highway or bridge toll charge occurs, the for-hire driver shall assess the passenger the cost of the highway or bridge toll charge.

§10–110.

(a) (1) There is a position of license hearing officer.

(2) The license hearing officer shall be appointed by the Commission.

(3) The license hearing officer serves at the pleasure of the Commission.

(4) The license hearing officer is entitled to compensation in accordance with the State budget.

(b) The license hearing officer may hold a hearing involving a violation of this division or the Commission's regulations:

(1) by a for–hire driver licensed by the Commission, including a transportation network operator, transportation network partner, or transportation network driver licensed or otherwise authorized by the Commission to provide transportation network services;

(2) except for a violation relating to rates, by a holder of a taxicab permit issued by the Commission; and

(3) by a sedan company, limousine company, taxicab company, or transportation network company.

(c) The license hearing officer shall file with the Commission, and simultaneously serve on all parties, a proposed order and findings of fact.

(d) The proposed order shall become final unless appealed as provided in § 3-113(d) of this article.

(e) Whenever a for-hire driver's license or taxicab permit is suspended or revoked, or a civil penalty is imposed on the for-hire driver or taxicab permit holder, the for-hire driver or taxicab permit holder:

(1) may request a rehearing in accordance with § 3-114 of this article; and

(2) may seek judicial review under Title 3, Subtitle 2 of this article.

(f) The Commission shall furnish to the permit holder a copy of the charges against a for-hire driver and the related decision of the license hearing officer and the Commission.

§10–111.

Notwithstanding § 2-110 of this article, the Commission may seek adequate funding in the State budget and employ adequate staffing in order to implement the responsibilities set forth in this title and Title 9, Subtitle 2 of this article.

§10–112.

(a) There is a For–Hire Driving Services Enforcement Fund.

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

(c) The purpose of the Fund is to provide adequate resources for the Commission to enforce the requirements of this title concerning for–hire driving services.

(d) (1) The Fund consists of assessments made on permits for vehicles regulated by the Commission to provide for–hire driving services in the State.

(2) The Commission shall establish an assessment not exceeding $40 to be paid annually with respect to each vehicle permit to provide for–hire driving services, except for a vehicle permit to be used exclusively for employee van transportation to or from a designated work site.

(e) The Fund is to be used solely for statewide enforcement activities of the Commission relating to for–hire driving services.

§10–201.

This subtitle applies to a person providing taxicab services under a taxicab permit or taxicab driver's license issued by the Commission.

§10–202.

(a) A person must have a permit issued by the Commission whenever the person operates as a taxicab business in or from a point in Baltimore City, Baltimore County, the City of Cumberland, or the City of Hagerstown.

(b) The provisions of this division relating to taxicabs or of any public local law relating to taxicabs do not limit the jurisdiction of the Commission over a taxicab business as a common carrier even if the taxicab business operates in a jurisdiction other than Baltimore City, Baltimore County, the City of Cumberland, or the City of Hagerstown.

§10–203.

(a) (1) An applicant for a permit to operate a taxicab business shall submit to the Commission an application on the form that the Commission provides.

(2) The Commission shall issue a permit if, after investigation, the Commission determines that issuing the permit would be best for the public welfare and convenience.

(b) In determining whether to issue a permit, the Commission shall consider all relevant factors including:

(1) the number of taxicabs to be used;

(2) the taxicab and other transportation services already available in the locality; and

(3) the rate to be charged.

(c) If it appears that a taxicab company is making an effort to mislead the public by imitating the name, design, or distinctive combination of colors of any taxicab already approved by the Commission, the Commission shall:

(1) reject the taxicab company's application for a permit; or

(2) revoke or suspend the taxicab company's existing permit.

§10–204.

(a) Each permit applies only to the particular taxicab designated in the permit.

(b) (1) Each permit is subject to the terms and conditions that the Commission establishes.

(2) The Commission shall set a term of at least 1 year for each permit.

(3) The Commission may renew a permit in accordance with the standards set forth in § 10-203 of this subtitle.

(c) If sufficient cause is shown, the Commission may amend, suspend, or revoke a permit.

§10–205.

(a) A permit may not be assigned or transferred unless, after investigation, the Commission approves the assignment or transfer as best for the public welfare and convenience.

(b) An applicant for an assignment or transfer of a permit shall submit to the Commission a written application that sets forth the purpose, terms, and conditions of the proposed assignment or transfer.

§10–206.

(a) Each taxicab for which a permit is required shall have the word "taxicab" appear conspicuously on the taxicab.

(b) (1) The Commission shall:

(i) determine the form and style of a badge; and

(ii) issue to each licensed taxicab driver a badge with the taxicab driver's license number on the badge.

(2) A licensed taxicab driver shall display the badge conspicuously in the interior of a taxicab whenever operating the taxicab.

§10–207.

(a) A taxicab for which a permit is required may not be operated unless the permit holder:

(1) obtains from an insurer authorized to transact business in the State, a liability insurance policy that:

(i) is approved by the Commission in all respects, including policy provisions, form, and amounts; and

(ii) insures the permit holder and taxicab driver against liability to a passenger or member of the public for property damage, personal injury, or death resulting from an accident in which the taxicab is involved; or

(2) deposits with the Commission a bond with a casualty or surety company authorized to do business in the State that:

(i) is approved by the Commission in all respects, including provisions, form, surety, and amounts; and

(ii) is made out to the State as obligee for the use and benefit of passengers and members of the public, and undertakes to indemnify passengers and members of the public against property damage, personal injury, or death resulting from an accident in which the taxicab is involved.

(b) (1) (i) Except as provided in subparagraph (ii) of this paragraph, a cancellation or revocation of an insurance policy or bond that is required under subsection (a) of this section may not take effect until 45 days after the date the Commission receives written notice from the revoking party.

(ii) Cancellation or revocation of an insurance policy or bond issued by the Maryland Automobile Insurance Fund may not take effect until 30 days after the date the Commission receives written notice from the Maryland Automobile Insurance Fund.

(2) At any time, if the Commission determines that the existing bond or insurance protection is inadequate, the Commission may require new or additional bond or insurance as a condition of operation.

§10–208.

(a) In addition to other duties specifically imposed by this subtitle, while driving a taxicab, a taxicab driver:

(1) shall accept as passenger and convey where directed any orderly person, on request, unless previously engaged or unable or forbidden to do so by this section, other valid law, or regulation;

(2) except when transferring a vehicle to or from repair facilities, have in the taxicab driver's possession a manifest that contains:

(i) the time and date issued, the expiration time, the taxicab driver's name and badge number, and the taxicab number;

(ii) space for meter readings and the calculation of driver income; and

(iii) any other information considered necessary by the Commission;

(3) shall report each change of residence within 72 hours to the Commission;

(4) shall answer promptly all communications and summonses received from the Commission;

(5) shall deliver all fares and all other legal charges received to the permit holder if working on a commission basis;

(6) may not operate a taxicab while the taxicab driver's operator license or taxicab driver's license is suspended;

(7) may not allow any other person to use the taxicab driver's badge or identification card;

(8) may not allow any other person to drive the taxicab and return the taxicab to the permit holder's garage on completion of the shift to which the taxicab driver was assigned;

(9) shall proceed with passengers to destination by the shortest practicable route;

(10) shall give a receipt for fares on request on an authorized form;

(11) may not operate a taxicab for more than 12 hours of any continuous 24-hour period;

(12) shall display in the interior of the taxicab at all times, while on duty, the identification card with photograph attached in the frame provided for the card and photograph; and

(13) shall charge only the rate of fare or charge established by law.

(b) (1) When assigned to a taxicab, the taxicab driver is responsible for ascertaining that the taxicab is in good working order.

(2) A taxicab driver may not tamper with rate cards, the meter, meter light, cable, speedometer cable, or any other equipment that is required to be in the taxicab by law or that registers fares and charges.

§10–209.

(a) A taxicab driver shall make maximum use of service communications with the driver's switchboard operator or dispatcher in order to keep the driver's taxicab available for response to calls.

(b) (1) A taxicab driver may not solicit the patronage of a person who is at the terminal of another common carrier or at an intermediate point along an established route of that carrier to use that common carrier's service.

(2) Paragraph (1) of this subsection does not prohibit or interfere with a response to a call for a taxicab whether the call is made by telephone or by signal from a pedestrian.

(3) Taxicabs being operated in Baltimore City:

(i) may transport a passenger from Baltimore City into Baltimore County and return to Baltimore County for the same passenger; but

(ii) may not solicit a passenger within Baltimore County at any time.

(4) This subtitle may not impede the operation of taxicabs between Baltimore City and Baltimore-Washington International Thurgood Marshall Airport in the manner allowed by law.

(c) (1) A taxicab may not carry more than the number of passengers designated on the rate card.

(2) A child in a passenger's arms is not counted as a passenger.

(3) Only one person may occupy the front seat with the driver.

(d) (1) A taxicab may be used from a railroad station or other public place of special assembly to serve jointly not more than four passengers who are bound for the same, or approximately the same, location.

(2) A passenger who has engaged a taxicab may not be compelled to share the taxicab with another person.

(3) A taxicab driver may not refuse service in order to group passengers more profitably.

(4) (i) Except as provided in subparagraph (ii) of this paragraph, if a taxicab is occupied by several passengers bound for different destinations, each passenger or party shall be charged the fare recorded on the meter at the time of arrival at the passenger's or party's destination.

(ii) A party or individual passenger may not be charged more than the fare applicable at the established rate for transportation over the shortest and most direct route.

(5) A taxicab driver may not solicit another passenger while en route to the destination of passengers or parties initially occupying the cab.

(e) A driver of a taxicab may not operate the taxicab:

(1) recklessly;

(2) in an unsafe manner; or

(3) in disregard of the public general or local laws or municipal ordinances governing the operation of motor vehicles.

§10–210.

(a) (1) A taxicab permit holder shall post in each of its taxicabs a schedule of its fares on a rate card.

(2) The rate card shall be printed and arranged in a way that allows a passenger to determine readily the exact fare payable by the passenger.

(3) A person may not collect a fare other than a fare appearing on or determinable from the rate card posted in the taxicab.

(b) (1) This subsection does not apply to a taxicab operating in the City of Hagerstown.

(2) Except as provided in subsection (c) of this section, while in service, each taxicab for which a permit is required shall be equipped with:

(i) an accurate taximeter that is properly installed and connected; or

(ii) another device the Commission approves for measuring the charges for service.

(c) (1) A fixed charge may be made for any trip by taxicab between:

(i) a point within the political subdivision in which the taxicab is normally operated and a point outside of the political subdivision;

(ii) the Maryland Port Administration's cruise terminal facilities and:

1. Fort McHenry;

2. the World Trade Center Institute in Baltimore; or

3. Penn Station in Baltimore; or

(iii) points within Baltimore City, as approved by the Commission.

(2) A fixed charge shall be calculated on a mileage basis that the Commission approves.

§10–301.

If a taxicab for which a permit is not required charges on the basis of a fixed charge made by zone, the extent of the zone shall be conspicuously expressed in mileage in the schedule required under § 10-210 of this title.

§10–401.

(a) In this subtitle the following words have the meanings indicated.

(b) "Insurance Commissioner" means the Insurance Commissioner of the Maryland Insurance Administration.

(c) "Operator" means a transportation network operator, transportation network partner, or transportation network driver.

§10–402.

(a) This subtitle applies to transportation network companies, operators, and transportation network services.

(b) To the extent not otherwise covered in this subtitle, transportation network companies, operators, and transportation network services shall be subject to:

(1) any applicable provisions of Titles 9 and 10 of this article; and

(2) regulations adopted by the Commission for the regulation of transportation network services.

§10–403.

(a) The Commission shall adopt regulations to ensure that transportation network companies and operators are making reasonable efforts to make transportation network services accessible to all people, including individuals with disabilities.

(b) The regulations adopted by the Commission under subsection (a) of this section shall provide for:

(1) the transportation of passengers with service animals;

(2) the accessibility of websites and mobile applications used to provide transportation network services;

(3) the reasonable accommodations necessary to serve individuals with disabilities; and

(4) the provision of information to an operator by a transportation network company related to the requirements of federal and State laws related to antidiscrimination.

§10–403.1.

A transportation network company may not operate in the State unless the Commission has issued a permit to the transportation network company.

§10–403.2.

(a) A transportation network company shall provide each operator with a weekly fare and earnings summary that includes:

(1) the total fares collected by the transportation network company for the transportation network services provided by the company's operators in a given week;

(2) the total amount of any additional fees that were charged to passengers by the transportation network company for the transportation network services provided by the company's operators in a given week;

(3) the total amount the operator earned that week;

(4) the total amount the operator earned from the total fares collected that week, expressed as a percentage of the total fares collected; and

(5) the total amount the operator earned from the additional fees specified in item (1) of this subsection that were collected that week, expressed as a percentage of the total additional fees charged.

(b) A transportation network company may include in the weekly fare and earnings summary required under subsection (a) of this section:

(1) any additional information the company considers appropriate; or

(2) amounts earned by an operator other than amounts earned from providing transportation network services.

§10–404.

(a) An operator may not provide transportation network services unless the Commission has authorized the operator to operate on a provisional basis or has issued a valid temporary or permanent transportation network operator's license to provide transportation network services.

(b) The Commission may approve an applicant to be an operator and issue a temporary transportation network operator's license to the applicant if:

(1) the applicant provides all information that the Commission requires for the application, including the information specified in item (2) of this subsection; and

(2) the Commission is satisfied with the successful submission of the applicant's:

(i) national criminal history records check:

1. conducted by a consumer reporting agency as defined under § 14–1201 of the Commercial Law Article or a comparable entity approved by the Commission; and

2. that includes:

A. a Multi–State Multi–Jurisdiction Criminal Records Database Search or a search of a similar nationwide database with validation;

B. a search of the Sex Offender Registry; and

C. a search of the U.S. Department of Justice's National Sex Offender Public Website; and

(ii) driving record check that includes a driving history research report.

(c) Subject to subsection (d) of this section, the Commission may issue a permanent transportation network operator's license to an applicant upon the submission of a satisfactory supplemental criminal background check as set forth under § 10–104(b) of this title.

(d) Before December 15, 2016, the Commission may not require an applicant for a permanent transportation network operator's license to comply with subsection (c) of this section if a transportation network company for which the applicant will provide services, at the time it applies for a permit, provides to the Commission details of the process the transportation network company uses to collect, review, and submit the information specified in subsection (b)(2) of this section.

(e) (1) A transportation network company may request that the Commission waive the requirement to comply with subsection (c) of this section and instead require compliance with subsection (b)(2) of this section for applicants and operators of the transportation network company.

(2) On receipt of a request under paragraph (1) of this subsection, the Commission shall:

(i) determine whether the transportation network company's process for complying with subsection (b)(2) of this section can be shown to be as comprehensive and accurate as complying with the supplemental criminal background check as set forth under § 10–104(b) of this title; and

(ii) within 3 months after receiving the request, determine whether to:

1. grant the waiver;

2. deny the waiver; or

3. approve an alternative process.

(f) A transportation network company may submit the information under subsection (b) of this section on behalf of an operator.

(g) The Commission shall adopt regulations that provide a process that is as expeditious as possible and uses electronic means for:

(1) the submission of the information under subsection (b) of this section;

(2) the issuance of a temporary or permanent transportation network operator's license and alternative authority to operate on a provisional basis; and

(3) the renewal of a transportation network operator's license.

(h) (1) Records or information provided to the Commission by a transportation network company under this section or disclosed by the Commission under paragraph (2) of this subsection are not subject to release under the Maryland Public Information Act.

(2) The Commission may not disclose records or information provided to the Commission under this section to any person unless:

(i) the disclosure is required by court order or order of the Maryland Tax Court;

(ii) the disclosure is made in accordance with § 10–119.3 of the Family Law Article; or

(iii) the disclosure is to the Comptroller under § 10–406(g)(5) of this subtitle.

(3) On notice that a person is seeking records or information under paragraph (2)(i) of this subsection, the Commission shall promptly notify the transportation network company before disclosing the records or information.

§10–405.

(a) (1) An operator, a transportation network company on behalf of the operator, or a combination of both shall maintain primary motor vehicle insurance, or other security under § 17–103(a)(3) of the Transportation Article, that:

(i) recognizes that the operator is a transportation network operator or otherwise uses a motor vehicle to transport passengers for hire; and

(ii) covers the operator while the operator is providing transportation network services.

(2) (i) The following motor vehicle insurance requirements shall apply while an operator is providing transportation network services:

1. security of at least:

A. for the payment of claims for bodily injury or death arising from an accident, up to $50,000 for any one person and up to $100,000 for any two or more persons, in addition to interest and costs; and

B. for the payment of claims for property of others damaged or destroyed in an accident, up to $25,000, in addition to interest and costs;

2. uninsured motorist insurance coverage required under § 19–509 of the Insurance Article; and

3. personal injury protection coverage required under § 19–505 of the Insurance Article.

(ii) The coverage requirements under this paragraph may be satisfied by motor vehicle insurance maintained by:

1. an operator;

2. a transportation network company; or

3. both an operator and a transportation network company.

(b) If insurance or other security is provided by both the transportation network company and the operator under subsection (a) of this section, the insurance maintained by the transportation network operator is primary.

(c) The insurance or other security maintained by a transportation network company shall provide the coverage required under subsection (a) of this section from the first dollar of a claim and provide for the duty to defend the claim in the event the insurance maintained by an operator under subsection (a) of this section has coverage that has been canceled or has lapsed or is otherwise not in force.

(d) (1) A transportation network company that procures insurance from an admitted insurer or a nonadmitted insurer shall:

(i) verify that the coverage required under subsection (a) of this section is maintained at all times; and

(ii) provide to the Commission and the Insurance Commissioner, annually upon each renewal:

1. a valid certificate of insurance coverage that meets the requirements of subsection (a) of this section and that:

A. is prepared by the insurer;

B. is signed by an officer of the insurer;

C. is in a form acceptable to the Commission;

D. states the name and home office address of the insurer providing coverage to the transportation network company;

E. states the effective dates of the coverage;

F. states a general description of the coverage; and

G. includes a certification of a policy provision that will notify the Commission and the Insurance Commissioner of any termination of coverage at least 60 days in advance of the effective date of the termination; and

2. the underlying policy for the coverage required under subsection (a) of this section.

(2) (i) The Commission may consult with the Insurance Commissioner concerning the provisions of the underlying policy provided to the Commission and the Insurance Commissioner under paragraph (1)(ii)2 of this subsection.

(ii) 1. Records provided to the Commission by a transportation network company under this section are not subject to release under the Maryland Public Information Act or any other law.

2. The Commission and the Insurance Commissioner may not disclose records or information provided to the Commission and the Insurance Commissioner under this section to any person unless the disclosure is required by subpoena or court order.

3. If a subpoena or court order requires the Commission or the Insurance Commissioner to disclose information provided to the Commission or the Insurance Commissioner under this section, the Commission or the Insurance Commissioner, as appropriate, promptly shall notify the transportation network company before disclosing the information.

(3) A transportation network company that maintains security under § 17–103 of the Transportation Article shall provide the Commission with evidence of the required security.

(e) Subject to § 17–103(a) of the Transportation Article, insurance required under subsection (a) of this section shall be issued by:

(1) an insurer authorized to do business in the State; or

(2) solely with respect to insurance maintained by a transportation network company, an eligible surplus lines insurer:

(i) in accordance with the requirements of Title 3, Subtitle 3 of the Insurance Article; and

(ii) having an A.M. Best financial strength rating of A– or better.

(f) Before an operator may accept a request for a ride made through the transportation network company's digital network, the transportation network company shall disclose to the operator, in writing, the following:

(1) the insurance coverage, including the types of coverage and the limits for each coverage, that the transportation network company provides while the operator is providing transportation network services;

(2) that the operator should contact the operator's personal motor vehicle insurer or agent to:

(i) advise the insurer or agent that the operator will be providing transportation network services; and

(ii) determine the coverage, if any, that may be available from the operator's personal motor vehicle policy; and

(3) that, if the motor vehicle that the operator uses to provide transportation network services has a lien against it, using the motor vehicle for transportation network services without physical damage coverage may violate the terms of the contract with the lienholder.

(g) (1) If an accident occurs that involves a motor vehicle that is being used to provide transportation network services, the operator, on request of directly interested parties, including a motor vehicle insurer or an investigative law enforcement officer, shall:

(i) provide proof of insurance satisfying the requirements of this section; and

(ii) disclose whether the accident occurred while the operator was providing transportation network services.

(2) In a claim coverage investigation following a vehicular accident, a transportation network company and any insurer potentially providing coverage

under this section shall cooperate to facilitate the exchange of information with directly involved parties and any insurer of an operator, if applicable, including:

(i) the precise times that an operator was logged onto the transportation network company's digital network:

1. in the 12–hour period immediately preceding the accident; and

2. in the 12–hour period immediately following the accident; and

(ii) a clear description of the coverage, exclusions, and limits provided under any motor vehicle insurance maintained under this section.

§10–406.

(a) (1) In this section the following words have the meanings indicated.

(2) "Assessment" means a charge imposed by a local jurisdiction on each transportation network service that includes a passenger trip during transportation network coverage period three as described in § 10–101(n)(1)(iii) of this title.

(3) "Exempt jurisdiction" means a county or municipal corporation that imposed a tax, fee, or charge on for–hire transportation services provided on a per ride or per passenger basis in that county or municipal corporation on or before January 1, 2015.

(b) (1) Except as provided in paragraph (2) of this subsection, this section does not limit the authority of an exempt jurisdiction to impose an assessment, a tax, a fee, or a charge on for–hire transportation services, including transportation network services.

(2) An exempt jurisdiction may not impose more than one assessment or similar charge on a transportation network service.

(c) (1) In accordance with subsections (d) and (e) of this section, a county or municipal corporation may impose an assessment under this section.

(2) Except in an exempt jurisdiction, an assessment by a county or municipal corporation authorized by this section may not exceed 25 cents per trip.

(3) (i) Except as provided in subsection (e)(5) of this section, an assessment may not be imposed on a transportation network service by both a county and a municipal corporation.

(ii) If both a county and a municipal corporation impose an assessment on a transportation network service in accordance with subsection (e)(5) of this section, the sum of the assessments imposed by both jurisdictions may not exceed 25 cents per trip.

(4) The revenue generated from an assessment authorized under this section shall be used for transportation purposes.

(d) (1) This subsection applies to a county or municipal corporation that licensed or regulated taxicab services on or before January 1, 2015, either directly or through the Commission as provided in § 10–202 of this title.

(2) (i) A county, in accordance with subparagraph (ii) of this paragraph, or a municipal corporation may impose an assessment on trips that originate in the county or municipal corporation.

(ii) A county authorized to impose an assessment under this subsection:

1. may impose an assessment on trips that originate in any area of the county; but

2. may not impose an assessment in a municipal corporation that is authorized to impose an assessment under this subsection.

(3) If a county or municipal corporation authorized to impose an assessment under this subsection has not authorized an assessment on trips that originate in the county or municipal corporation by July 1, 2016, the county or municipal corporation is subject to subsection (e) of this section.

(4) (i) If a county authorized to impose an assessment under this subsection plans to impose an assessment under this section, the county shall notify the municipal corporations in the county of the county's intent to impose an assessment.

(ii) If a municipal corporation authorized to impose an assessment under this subsection plans to impose an assessment under this section, the municipal corporation shall notify the county of the municipal corporation's intent to impose an assessment.

(e) (1) This subsection applies to a county or municipal corporation that:

(i) is not authorized to impose an assessment under subsection (d) of this section; or

(ii) 1. is authorized to impose an assessment under subsection (d) of this section; but

2. has not authorized an assessment by July 1, 2016.

(2) In accordance with paragraph (3) of this subsection and subsections (f) and (g) of this section, a county or municipal corporation may impose an assessment on trips that originate in the county or municipal corporation.

(3) (i) Except as provided under subparagraph (ii) of this paragraph:

1. a municipal corporation has priority over the county where the municipal corporation is located to impose an assessment on trips that originate in the municipal corporation; and

2. the county may not impose an assessment on trips that originate in the municipal corporation.

(ii) A county has priority over a municipal corporation to impose an assessment on trips that originate in the municipal corporation, and the municipal corporation may not impose an assessment on trips that originate in the municipal corporation, if:

1. the county has authorized an assessment on trips that originate in the county under subsection (d) of this section by July 1, 2016; and

2. the municipal corporation is not authorized to impose an assessment on trips that originate in the municipal corporation under subsection (d) of this section.

(iii) A municipal corporation that is not authorized to impose an assessment on trips that originate in the municipal corporation under subsection (d) of this section and that is located in a county that is authorized to impose an assessment on trips that originate in the county under subsection (d) of this section may impose an assessment on trips that originate in the municipal corporation under this subsection after July 1, 2016, if the county has not authorized an assessment on trips that originate in the county by July 1, 2016.

(4) (i) Before a county may impose an assessment on trips that originate in a municipal corporation under this subsection, the county shall:

1. notify the municipal corporation of the county's intent to impose an assessment on transportation network services that originate in the municipal corporation; and

2. provide the municipal corporation reasonable time to pass an ordinance authorizing the imposition of an assessment.

(ii) Before a municipal corporation may impose an assessment on trips that originate in the municipal corporation under this subsection, the municipal corporation shall:

1. notify the county of the municipal corporation's intent to impose an assessment; and

2. if the county imposes an assessment, provide the county reasonable time to notify the Comptroller before the municipal corporation's assessment becomes effective.

(5) (i) Notwithstanding paragraph (4) of this subsection and subject to subparagraph (iii) of this paragraph, both a county and a municipal corporation authorized to impose an assessment under this subsection may impose an assessment on a transportation network service if the county and the municipal corporation enter into an agreement:

1. to share revenues; and

2. that specifies the allocation of the revenues.

(ii) A county and a municipal corporation that enter into an agreement under this paragraph to impose an assessment on a transportation network service by both jurisdictions shall provide a copy of the agreement to the Comptroller.

(iii) If both a county and a municipal corporation impose an assessment on a transportation network service under this paragraph, the sum of the assessments imposed by both jurisdictions may not exceed the amount under subsection (c)(3)(ii) of this section.

(f) (1) At least 120 days before an assessment is to take effect, a county or municipal corporation that intends to impose an assessment shall notify the Comptroller:

(i) of the amount of the assessment;

(ii) of the effective date of the assessment; and

(iii) that the notice required under subsection (e)(4) of this section was provided to the county or municipal corporation.

(2) A county or municipal corporation that imposes an assessment shall notify the Comptroller at least 120 days before any change in an assessment is to take effect:

(i) of the amount of the new assessment;

(ii) of the effective date of the new assessment; and

(iii) that the notice required under subsection (e)(4) of this section was provided to the county or municipal corporation.

(g) (1) This subsection governs the collection, remittance, accounting, and use of revenues from assessments imposed by a county or municipal corporation under this section.

(2) A transportation network company shall:

(i) collect assessments on behalf of an operator who accepts a request for a ride made through the transportation network company's digital network;

(ii) collect any assessment, fee, charge, or tax imposed by an exempt jurisdiction on a transportation network service; and

(iii) submit to the Comptroller no later than 30 days after the end of a calendar quarter, or as otherwise specified by the Comptroller in regulations:

1. the assessments and other revenues collected by the transportation network company on behalf of the transportation network operators;

2. the allocation of the assessments and other revenues attributable to each county or municipal corporation that has imposed an assessment based on where the trip originated; and

3. under oath, a certification that it has submitted the correct amount of assessments and revenues.

(3) (i) Subject to subparagraph (ii) of this paragraph, from the assessments and revenues imposed by counties and municipal corporations, the Comptroller shall distribute each quarter the amount necessary to administer the assessments to an administrative cost account.

(ii) The amount distributed to the administrative cost account may not exceed 5% of the revenue from the assessments and other revenue.

(4) After making the distribution required by paragraph (3) of this subsection, within 45 days of the end of each calendar quarter, the Comptroller shall distribute the remaining revenue to:

(i) the county or municipal corporation that is the source of the revenue; or

(ii) at the discretion of the Comptroller, the county that is the source of the revenue for the county to distribute to the source of revenue in the county or municipal corporation.

(5) The Commission shall disclose:

(i) on the request of the Comptroller, records or information that relate to the collection, remittance, accounting of revenues from assessments, or the enforcement of the obligations under this section that are:

1. provided to the Commission under this subtitle; or

2. created, issued, or maintained by the Commission in the course of administering this subtitle; and

(ii) records or information required by court order or order of the Maryland Tax Court.

(6) (i) 1. The Comptroller may review or inspect each year, at a transportation network company's place of business or a mutually agreed location, records necessary to ensure that the transportation network company has remitted to the Comptroller the correct revenues and allocations.

2. Nothing in this subparagraph is intended to limit the period covered by the Comptroller's review or inspection, which may include more than 1 year.

(ii) Records or information provided to the Comptroller by a transportation network company under this subsection are not subject to release under the Maryland Public Information Act.

(iii) The Comptroller may not disclose records or information provided by a transportation network company unless the disclosure is required by court order or order of the Maryland Tax Court.

(iv) On notice that a person is seeking records or information under subparagraph (iii) of this paragraph, the Comptroller shall promptly notify the transportation network company before disclosing the information.

(v) The Comptroller may disclose records or information provided by the Commission or a transportation network company to:

1. the Maryland Tax Court;

2. a legal representative of the State, to review the assessment information about a transportation network company:

A. that applies for review under Title 13 under the Tax – General Article;

B. that appeals from a determination under Title 13 of the Tax – General Article; or

C. against which an action to recover an assessment, an interest, or a penalty is pending or will be initiated under Title 13 of the Tax – General Article; or

3. any license–issuing authority of the State required by State law to verify through the Comptroller that:

A. an applicant has paid all undisputed taxes and unemployment insurance contributions payable to the Comptroller or the Secretary of Labor; or

B. the applicant has provided for payment in a manner satisfactory to the unit responsible for collection.

(vi) 1. Records or information disclosed under subparagraph (v)2 or 3 of this paragraph are not subject to release under the Maryland Public Information Act.

2. A person that receives records or information under subparagraph (v)2 or 3 of this paragraph may not disclose the records or information unless the disclosure is required by court order or order of the Maryland Tax Court.

3. On notice that a third party is seeking records or information under subsubparagraph 2 of this subparagraph, the person that receives records or information under subparagraph (v)2 or 3 of this paragraph shall promptly notify the transportation network company before disclosing the information.

(7) (i) Except to the extent of any inconsistency with this section, the provisions of Title 13 of the Tax – General Article that apply to the sales and use tax shall govern the administration, collection, enforcement, and appeals of the revenues from assessments under this section.

(ii) The limitations governing the sales and use tax under § 13–1102 of the Tax – General Article apply to the assessments imposed under this section.

(8) The Comptroller may adopt regulations or other requirements or procedures to carry out the provisions of this section, including requirements and procedures regarding the administration, collection, and enforcement of the assessment.

(h) The Comptroller shall enforce this section and § 10–407 of this subtitle.

§10–407.

(a) There is a Transportation Network Assessment Fund.

(b) The Fund consists of assessment revenues submitted to the Comptroller from transportation network companies under § 10–406(g) of this subtitle.

(c) The purpose of the Fund is to:

(1) receive assessment revenues submitted from transportation network companies; and

(2) disburse assessment revenues to the appropriate counties and municipalities in accordance with this subsection.

(d) (1) The Comptroller shall:

(i) deposit in the Fund assessment revenues received from transportation network companies; and

(ii) disburse trip assessment revenues to the appropriate counties and municipalities.

(2) The Treasurer is the custodian of the Fund.

(e) (1) The Fund is a continuing, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article, and may not be deemed a part of the General Fund of the State.

(2) No part of the Fund may revert or be credited to:

(i) the General Fund of the State; or

(ii) a special fund of the State.

§10–408.

(a) (1) In this section the following words have the meanings indicated.

(2) "Shared passenger trip" means a prearranged ride for which the passenger agrees, at the time the passenger requests the ride through a transportation network company's digital network application, to be transported with another passenger who has separately requested a prearranged ride regardless of whether another passenger is transported.

(3) "Transportation network company impact fee" means the fee imposed by the State under this section on each transportation network service that includes a passenger trip during transportation network coverage period three as described in § 10–101(n)(1)(iii) of this title.

(b) (1) There is a transportation network company impact fee on passenger trips that originate in the State.

(2) A transportation network company shall collect the transportation network company impact fee.

(3) (i) Subject to paragraph (4) of this subsection and except as provided in subparagraphs (ii) and (iii) of this paragraph, the transportation network company impact fee is 75 cents for each passenger trip.

(ii) Subject to paragraph (4) of this subsection, the transportation network company impact fee for a passenger trip provided using a fuel

cell electric vehicle or a plug–in electric drive vehicle, as those terms are defined in Title 11, Subtitle 1 of the Transportation Article, is 50 cents for each passenger trip.

(iii) Subject to paragraph (4) of this subsection, the transportation network company impact fee is 50 cents for each shared passenger trip.

(4) (i) 1. In this subparagraph, "Consumer Price Index for All Urban Consumers" means the index published monthly by the Bureau of Labor Statistics of the U.S. Department of Labor that is the U.S. city average of all items in a basket of consumer goods and services.

2. The percentage growth in the Consumer Price Index for All Urban Consumers shall be determined by comparing the average of the index for the 12 months ending on the preceding April 30 to the average of the index for the prior 12 months.

(ii) The transportation network company impact fee shall be increased on July 1, 2028, and on July 1 each subsequent year in accordance with this paragraph.

(iii) On or before June 1 each year, the Comptroller shall determine and announce:

1. the growth in the Consumer Price Index for All Urban Consumers as determined by the Comptroller under subparagraph (i) of this paragraph; and

2. the transportation network company impact fee effective for the fiscal year beginning on the following July 1 as determined by the Comptroller under subparagraph (iv) of this paragraph.

(iv) Subject to subparagraph (v) of this paragraph, on July 1 each year, the transportation network company impact fee shall be increased by the amount, rounded to the nearest one–tenth of a cent, that equals the product of multiplying:

1. the transportation network company impact fee in effect on the date of the Comptroller's announcement under subparagraph (iii) of this paragraph; and

2. the percentage growth in the Consumer Price Index for All Urban Consumers.

(v) 1. If there is a decline or no growth in the Consumer Price Index for All Urban Consumers, the transportation network company impact fee shall remain unchanged.

2. Any increase in the transportation network company impact fee under subparagraph (iv) of this paragraph may not be greater than 8% of the transportation network company impact fee effective in the previous year.

(c) (1) A transportation network company shall either:

(i) collect the transportation network company impact fee from a passenger on behalf of a transportation network operator; or

(ii) pay the transportation network company impact fee on behalf of a passenger.

(2) If a transportation network company collects the transportation network company impact fee from the passenger:

(i) the transportation network company impact fee shall be charged in addition to any other tax or fee; and

(ii) the transportation network company shall show the impact fee as a separate line item on the passenger's receipt, invoice, or other bill of sale, distinct from the transaction price and any other tax or fee imposed.

(3) The receipt, invoice, or other bill of sale shall list the impact fee as "Transportation Network Company Impact Fee".

(4) A transportation network company that pays the transportation network company impact fee on behalf of a passenger shall remit the fee to the Comptroller as if the fee had been collected from the passenger on the date of the passenger trip.

(d) (1) A transportation network company shall:

(i) report the transportation network company impact fee on a form prescribed by the Comptroller; and

(ii) remit the transportation network company impact fee to the Comptroller not later than 30 days after the end of a calendar quarter, or as otherwise specified by the Comptroller in regulations.

(2) For the expense of reporting and remitting the transportation network company impact fee the transportation network company may retain the lesser of 0.9% of the amount the transportation network company remits under paragraph (1)(ii) of this subsection or $250.

(e) Except as otherwise provided in this section, the audit, assessment, liability for payment, refund, penalty, interest, enforcement, collection remedies, appeal, and administrative provisions that are applicable to an assessment imposed under § 10–406 of this subtitle apply to the transportation network company impact fee.

(f) (1) From the transportation network company impact fee revenue, the Comptroller shall distribute the amount necessary to pay refunds relating to the transportation network company impact fee to a refund account.

(2) After making the distribution required under paragraph (1) of this subsection, the Comptroller shall distribute the amount necessary to administer the transportation network company impact fee to an administrative cost account.

(3) After making the distributions required under paragraphs (1) and (2) of this subsection, the Comptroller shall deposit the balance of the revenue from the transportation network company impact fee in the Transportation Network Company Impact Fee Account in the Transportation Trust Fund.

(g) The Comptroller may adopt regulations or other requirements or procedures to carry out this section, including requirements and procedures regarding the administration, collection, and enforcement of the transportation network company impact fee.

(h) This section may not be construed to have any effect on an assessment imposed under § 10–406 of this subtitle.

§10–409.

(a) On or before February 1 each year, a transportation network company shall report to the Commission the following information in an aggregated format for the prior year:

(1) the average fare collected from passengers in the State;

(2) the total time driven by operators while providing in–State transportation network services for the transportation network company; and

(3) the total amount earned by operators for providing in–State transportation network services for the transportation network company.

(b) Any information obtained by the Commission under this section that is not otherwise publicly available:

(1) is considered:

(i) a trade secret; and

(ii) confidential and proprietary information; and

(2) is not subject to disclosure under the Public Information Act.

(c) The report required under subsection (a) of this section may be made available to the General Assembly on request, provided that the report remain confidential and exempt from public disclosure.

§10–501.

(a) A person may not transport, solicit for transport, or agree to transport any person or baggage in a motor vehicle for hire unless the operator of the motor vehicle is licensed by the Commission.

(b) A person who owns or is in charge of a motor vehicle may not allow the motor vehicle to be used in violation of this section, § 10–109, or § 10–209 of this title.

§10–502.

(a) A person may not operate a vehicle that provides passenger–for–hire services in the State:

(1) unless the person is licensed as a passenger–for–hire driver by the Commission, including a person who is licensed or otherwise authorized by the Commission as a transportation network operator, transportation network partner, or transportation network driver; or

(2) in violation of this title or Title 9, Subtitle 2 of this article.

(b) A person may not operate a vehicle that provides taxicab services in the State:

(1) unless the person is licensed as a taxicab driver by the Commission or a county or municipal corporation; or

(2) that is under the jurisdiction of the Commission, in violation of this title.

(c) A person may not operate a transportation network company in the State unless the person has been issued a permit as a transportation network company by the Commission.

(d) Subject to the hearing provisions of § 3–102(c) of this article, the Commission may impose on a person who violates this section a civil penalty not exceeding $500 for each violation.

§11–101.

(a) (1) In this section the following words have the meanings indicated.

(2) "Liquefied natural gas" means natural gas cooled to form a liquid at approximately atmospheric pressure.

(3) "Liquefied natural gas facility" means any facility used to produce, store, or regasify liquefied natural gas.

(b) The Commission shall adopt regulations to ensure to the greatest extent practicable the operational safety of liquefied natural gas facilities.

(c) (1) The Commission shall inspect periodically each liquefied natural gas facility to ensure compliance with the regulations adopted under subsection (b) of this section.

(2) Inspections shall be conducted at intervals the Commission determines necessary.

(d) The Commission may enforce these regulations by any method provided in § 2-117(a), § 13-201, or § 13-205 of this article.

(e) The Commission may enter into agreements with federal units as necessary to carry out this section.

(f) This section does not expand the definition of "public service company" in § 1-101 of this article.

(g) A person who violates a regulation that the Commission adopts under this section is guilty of a misdemeanor and on conviction is subject to a fine not

exceeding $10,000 for each day the violation continues, and imprisonment not exceeding 1 year.

§11–102.

(a) The Commission shall adopt and enforce safety standards for gas service installations at locations where service is provided to:

(1) 10 or more customers by pipes from a liquefied petroleum gas storage tank; or

(2) at least 2 but fewer than 10 customers, by underground pipes from a liquefied petroleum gas storage tank, if a portion of the system is located in a public place.

(b) (1) The owner of a facility at a location subject to subsection (a) of this section or the owner of the liquefied petroleum gas furnished shall comply with the safety standards of service.

(2) Except as provided in paragraph (3) of this subsection, other sections of this division do not apply to an owner subject to this section.

(3) The Commission may apply Title 12, Subtitle 1 and §§ 2–117(a), 5–304, 7–301, 7–302, and 13–203 of this article to an owner subject to this section.

(c) When service begins, a person who furnishes gas service by pipes from a liquefied petroleum gas storage tank under subsection (a) of this section shall notify the Commission in writing about:

(1) the location of each installation;

(2) the number of customers or dwelling units furnished service at each location; and

(3) the name and address of the office responsible for the service.

§11–201.

(a) In this subtitle the following words have the meanings indicated.

(b) (1) "Hazardous liquid" means any:

(i) petroleum or petroleum product;

(ii) anhydrous ammonia;

(iii) carbon dioxide; and

(iv) any substance or material that:

1. is in a liquid state when transported by a pipeline facility; and

2. may pose an unreasonable risk to life or property when transported by a pipeline facility, as determined by the United States Secretary of Transportation.

(2) "Hazardous liquid" does not include liquefied natural gas.

(c) "Interstate pipeline" means a pipeline, or part of a pipeline, regulated under 49 U.S.C. Chapter 601 that is used in the transportation of hazardous liquids or carbon dioxide in interstate or foreign commerce.

(d) "Intrastate pipeline" means a pipeline, or part of a pipeline, regulated under 49 U.S.C. Chapter 601 that:

(1) is used in the transportation of hazardous liquids or carbon dioxide; and

(2) is not an interstate pipeline.

(e) "Pipeline facility" means new and existing pipe, rights–of–way, and any equipment, facility, or building used in the transportation of hazardous liquids or carbon dioxide.

(f) "Pipeline operator" means a person who owns or operates a pipeline facility.

§11–202.

(a) The Commission may act for the United States Secretary of Transportation to implement 49 U.S.C. Chapter 601 with respect to intrastate pipelines located within the State to the extent authorized by certification or agreement with the United States Secretary of Transportation under 49 U.S.C. Chapter 601.

(b) The Commission shall:

(1) make periodic certifications and reports to the federal Department of Transportation as may be required under 49 U.S.C. Chapter 601; and

(2) take any other actions necessary to carry out its responsibilities under a certification or agreement with the United States Secretary of Transportation under this subtitle.

(c) The authority of the Commission extends only to pipeline safety and enforcement and does not extend to hazardous liquid spill cleanup and remediation.

§11–203.

(a) (1) The Commission may adopt regulations that establish safety standards and practices applicable to the design, construction, operation, and maintenance of intrastate pipeline facilities.

(2) For any intrastate pipeline regulatory program that the Commission establishes under this subtitle, the Commission shall adopt as minimum standards the federal safety standards in Title 49, C.F.R. Parts 195 and 199, as periodically amended.

(3) (i) In collaboration with the American Society of Mechanical Engineers, the Commission shall:

1. establish and adopt by regulation methods and best practices for intrastate pipeline facilities; and

2. require introduction of these methods and best practices as soon as may be practicable.

(ii) The methods shall include quantitative criteria, based on engineering evaluations, to determine whether a wrinkle or other deformity may remain in a pipeline or should be remedied.

(b) (1) The Commission may enter, inspect, and examine, at reasonable times and in a reasonable manner, the records and property of an intrastate pipeline operator to determine whether the pipeline operator is acting in compliance with this subtitle and regulations adopted by the Commission under this subtitle.

(2) The Commission shall inspect each intrastate pipeline at least once each year.

(c) The Commission shall require an intrastate pipeline operator to prepare, maintain, and carry out a written plan for the operation and maintenance of each pipeline facility owned or operated by the intrastate pipeline operator.

§11–204.

(a) An intrastate pipeline operator shall immediately notify the Commission and the National Response Center of any significant:

(1) error in information that the pipeline operator has previously submitted to either unit; or

(2) new information that relates to reporting criteria or other information that the pipeline operator is required to submit under this subtitle.

(b) The Commission shall notify the National Response Center of any error or new information that the Commission or an agent of the Commission discovers while:

(1) providing training for pipeline facilities;

(2) developing methods and best practices under § 11-203(a)(3) of this subtitle; or

(3) inspecting an intrastate pipeline.

§11–205.

(a) Each year an intrastate pipeline operator shall submit an annual report on the state of its pipeline facility to the Commission and to each owner of real property:

(1) on which the pipeline facility is located; or

(2) adjacent to or contiguous to real property on which the pipeline facility is located.

(b) The annual report shall include:

(1) a summary description of the system that includes the pipeline facility;

(2) a description of the product transported in the pipeline facility and system;

(3) State and local emergency response liaison information;

(4) a description of the leak detection system in use for the pipeline facility;

(5) a description of periodic testing methods used on the pipeline facility and a summary of results of the testing; and

(6) any other information that the Commission requires.

(c) The Commission shall make annual reports available to the public, including publication using the Internet.

(d) At least once every 5 years, an intrastate pipeline operator shall:

(1) identify each owner of real property on which the pipeline facility is located;

(2) notify each property owner of the presence of the pipeline facility on the owner's property;

(3) verify that each property owner has received the notice; and

(4) provide to the Commission a current list of all property owners.

§11–206.

(a) The Commission may assess and collect from an intrastate pipeline operator an inspection fee that may be used by the Commission for administering the regulatory program established by the Commission under this subtitle.

(b) The fee may not:

(1) exceed the expenses attributable to the inspection and examination of the facility; and

(2) include expenses that will be reimbursed by the federal government.

§11–207.

The Commission may bring an action for injunctive relief in a circuit court to:

(1) enjoin a violation of this subtitle;

(2) enjoin the transportation of a hazardous liquid by pipeline or the operation of a pipeline facility; or

(3) enforce a standard established by the Commission under this subtitle.

§11–208.

(a) The Commission may impose on a person who violates this subtitle or a regulation adopted in accordance with this subtitle a civil penalty that does not exceed the maximum penalties provided in 49 U.S.C. Chapter 601 (Hazardous Liquid Pipeline Safety Act).

(b) Each day a violation continues is a separate violation under this section.

(c) To determine the amount of a penalty imposed under this section, the Commission shall consider:

(1) the nature, circumstances, and gravity of the violation;

(2) with respect to the violator:

(i) the degree of culpability;

(ii) any history of prior violations;

(iii) the ability to pay;

(iv) any effect on the ability to continue doing business; and

(v) good faith in attempting to comply; and

(3) other matters that justice requires.

§12–101.

(a) In this subtitle the following words have the meanings indicated.

(b) "Authority" means the Maryland Underground Facilities Damage Prevention Authority.

(c) "Business day" means a calendar day other than a Saturday, Sunday, or legal holiday.

(d) "Clear evidence" means a visible indication that an underground facility or structure is not marked as required in § 12–126 of this subtitle.

(e) "Contract locator" means a person contracted by an owner specifically to determine the approximate horizontal location of the owner's underground facilities as specified in the ticket issued by the one–call system.

(f) "Cross–bore" means an intersection of an existing underground facility by a second underground facility resulting in contact between the two facilities that results in the original facility being damaged, dislocated, or disturbed.

(g) "Damage" means any excavation activity that results in the need to repair an underground facility due to a weakening or the partial or complete destruction of the facility, including the protective coating, lateral support, cathodic protection, or housing for the underground facility.

(h) "Demolition" means an operation in which a structure or mass of material is wrecked, razed, rended, moved, or removed using any tool, equipment, or explosive.

(i) "Designer" means a licensed architect, professional engineer, professional land surveyor, or licensed landscape architect, as those terms are defined in the Business Occupations and Professions Article, who prepares a drawing for a project that may require excavation or demolition.

(j) "Detectable underground facility" means an underground facility that utilizes a location device that is installed underground, such as an electronic marker or a traceable wire that may be detected above ground with an electronic locating device.

(k) "Emergency" means a sudden or unexpected occurrence involving a clear and imminent danger demanding immediate action to prevent or mitigate loss of, or injury to, life, health, property, or an essential public service.

(l) (1) "Excavation" means an operation in which earth, rock, or other material in or on the ground is moved, removed, or otherwise displaced by using any tool, equipment, or explosive.

(2) "Excavation" includes grading, trenching, digging, ditching, dredging, drilling, boring, augering, tunnelling, scraping, cable or pipe plowing, pipe bursting, and driving a mass of material.

(m) "Excavator" means a person that performs an excavation or a demolition.

(n) "Extent of work" means a clear and concise description of work to be done at a property, including the property address or specific distance and direction from a specified point, not to exceed 1,320 feet, that completely depicts the scope of work and that the excavator can complete within the designated life of the ticket.

(o) "Fund" means the Maryland Underground Facilities Damage Prevention Education and Outreach Fund.

(p) "Legal holiday" means:

(1) the day on which a legal holiday, as defined in § 1–111 of the General Provisions Article, is observed; or

(2) a federal legal holiday.

(q) "Locatable underground facility" means an underground facility that can be identified or discovered by methods including installation records, facility markers or risers, locator tape, manual location techniques, surface extensions of underground facilities, or any visible indicators that a facility or structure is buried underground in the immediate vicinity.

(r) "Mark" means a line, an arrow, a curve, a whisker, a flag, a stake, or any other symbol, placed or made to identify an underground facility.

(s) "One–call system" means a communications system in the State that:

(1) allows a person to notify owner–members of planned excavation or demolition by:

(i) calling a toll–free number or abbreviated dialing code; or

(ii) initiating an interactive Internet ticket request; and

(2) maintains an underground facilities information exchange system.

(t) (1) "Owner" means a person that:

(i) owns or operates an underground facility; and

(ii) has the right to bury an underground facility.

(2) "Owner" includes:

(i) a public utility;

(ii) a telecommunications corporation;

(iii) a cable television corporation;

(iv) a political subdivision;

(v) a municipal corporation;

(vi) a steam heating company;

(vii) an authority; and

(viii) a unit of the State.

(u) "Owner–member" means an owner that participates as a member in a one–call system.

(v) (1) "Person" has the meaning stated in § 1–101 of this article.

(2) "Person" includes:

(i) a municipal corporation;

(ii) the State;

(iii) a political subdivision of the State; and

(iv) any governmental unit, department, or agency.

(w) "Primary contractor" means the person that:

(1) initiates the notification to the one–call system to establish a ticket;

(2) performs excavation duties for the duration of the ticket; and

(3) is on site to supervise all activities, employees, and any temporary excavator added to the valid ticket as required in § 12–130(b) of this subtitle.

(x) "Temporary excavator" means a person that the primary contractor may identify and add as a subcontracting excavator to an existing ticket under § 12–130(c) of this subtitle.

(y) "Ticket" means a numbered document issued by a one–call system to notify owner–members that:

(1) a person intends to perform an excavation or demolition; or

(2) a designer has requested information on the location of underground facilities under § 12–131 of this subtitle.

(z) (1) "Trenchless technology" means a family of methods, materials, and equipment capable of being used for the installation of new or replacement, or rehabilitation of existing, underground infrastructure that requires excavation with minimal disruption to surface traffic business and other activities.

(2) "Trenchless technology" includes:

(i) tunnelling;

(ii) microtunnelling;

(iii) horizontal directional drilling or directional boring;

(iv) pipe ramming;

(v) pipe jacking;

(vi) moling;

(vii) horizontal auger boring; and

(viii) any other method for the installation of pipelines and cables below ground with minimal excavation.

(aa) "Underground facilities information exchange system" means an automated voice response unit or interactive Internet access system that is maintained as part of a one–call system.

(bb) (1) "Underground facility" means an item that is buried, placed below ground, or submerged for use in connection with the:

(i) storage or conveyance of water, sewage, oil, gas, or other substances; or

(ii) transmission or conveyance of telecommunications, cable television, or electricity.

(2) "Underground facility" includes pipes, sewers, combination storm/sanitary sewer systems, geothermal systems, conduits, cables, valves, lines, wires, manholes, and attachments.

(3) "Underground facility" does not include a storm drain.

§12–102.

It is the intent of the General Assembly to protect underground facilities of owners from destruction, damage, or dislocation to prevent:

(1) death or injury to individuals;

(2) property damage to private and public property; and

(3) the loss of services provided to the general public.

§12–103.

This subtitle does not apply to an excavation not more than 6 inches in depth or demolition performed or to be performed by an owner or lessee of a private residence when the excavation or demolition is performed or to be performed:

(1) entirely on the land on which the private residence of the owner or lessee is located; and

(2) without the use of machinery.

§12–104.

(a) This section applies to:

(1) complete replacement of an existing underground facility;

(2) underground storm drain systems and applicable devices; and

(3) an existing previously detectable underground facility or locatable underground facility.

(b) Except as otherwise provided in § 12–129 of this subtitle, on or after October 1, 2021, all newly installed underground facilities shall be detectable or locatable.

(c) Not later than October 1, 2021, any previously detectable underground facility or underground facility locatable during planned or emergency work must be restored to be detectable or locatable.

§12–106.

(a) There is a Maryland Underground Facilities Damage Prevention Authority.

(b) It is the intent of the General Assembly that the Authority not be funded by appropriations from the State budget.

§12–107.

(a) The Authority consists of nine members appointed by the Governor.

(b) The nine members shall be appointed as follows:

(1) one member from a list submitted to the Governor by the Associated Utility Contractors of Maryland;

(2) one member from a list submitted to the Governor by the Public Works Contractors Association of Maryland;

(3) two underground facility owners that are members of a one–call system from a list submitted to the Governor by the Maryland members of the Maryland/DC Subscribers Committee;

(4) one member from a list submitted to the Governor by the one–call systems operating in the State;

(5) one member who represents the State's underground facility contract locator community from a list submitted to the Governor by the Maryland members of the Maryland/DC Damage Prevention Committee;

(6) one member who has experience in the field of underground facilities from a list submitted to the Governor by the Maryland Association of Counties;

(7) one member who has experience in the field of underground facilities from a list submitted to the Governor by the Maryland Municipal League; and

(8) one member of the general public from a list submitted to the Governor by the other appointed and qualified members of the Authority.

(c) (1) To the extent practicable, members appointed to the Authority shall reasonably reflect the geographic, racial, and gender diversity of the State.

(2) A member shall reside in the State more than 6 months each year.

(3) For the stakeholder members appointed under subsection (b)(1) through (7) of this section:

(i) the member's primary business, employment, or membership determines the entity that the member is appointed to represent; and

(ii) an organization, a facility owner, or any other entity may not hold more than one seat on the Authority.

(d) (1) The term of a member is 2 years.

(2) The terms of members are staggered as required by the terms provided for members of the Authority on October 1, 2010.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(5) A member may not be appointed for more than two consecutive full terms.

(6) To the extent practicable, the Governor shall fill any vacancy in the membership of the Authority within 60 days after the vacancy.

(e) On the recommendation of the Authority, the Governor may remove a member for incompetence or misconduct.

(f) (1) Any organization, facility owner, or entity possessing a seat on the Authority whose term is due to expire or be vacated shall:

(i) designate a replacement for its representative; and

(ii) if reasonable, initiate the nomination process with the Governor's appointments office at least 60 days before the known expiration, removal, or resignation of its representative.

(2) If the organization, facility owner, or entity fails to comply with the replacement process under paragraph (1) of this subsection, the Authority shall:

(i) conduct a search for a replacement nominee from the organization, facility owner, or entity having the vacancy on the Authority; and

(ii) follow the nomination process provided by the Governor's appointments office.

(3) If the organization, facility owner, or entity having the vacancy subsequently fails to provide a nominee within the required time for a second time, the Authority may:

(i) remove the organization, facility owner, or entity representation from the Authority; and

(ii) replace the organization, facility owner, or entity having a vacancy on the Authority with a comparable organization, facility owner, or entity.

(4) In the case of a sudden or unexpected vacancy, the organization, facility owner, or entity shall provide a nomination to the Governor's appointments office within 60 days after the vacancy occurs.

§12–108.

(a) From among its members, each year the Authority shall select a chair.

(b) Subject to subsection (c) of this section, the manner of selection of the chair and the chair's term of office shall be as the Authority determines.

(c) A member may not serve more than 2 consecutive years as chair of the Authority.

§12–109.

(a) Five members of the Authority are a quorum.

(b) The Authority shall meet at least once every 3 months at the times and places it determines.

(c) A member of the Authority:

(1) may not receive compensation as a member of the Authority; and

(2) is not entitled to reimbursement for expenses.

§12–110.

(a) The Authority may:

(1) adopt bylaws for the conduct of its business;

(2) adopt a seal;

(3) maintain an office at a place it designates;

(4) maintain facilities for the purpose of holding hearings under this subtitle;

(5) employ a staff;

(6) accept a grant, a loan, or any other assistance in any form from any public or private source, subject to the provisions of this subtitle;

(7) enter into contracts and execute the instruments necessary or convenient to carry out this subtitle to accomplish its purposes; and

(8) do all things necessary or convenient to carry out the powers expressly granted by this subtitle.

(b) The Authority shall adopt a code of conduct for its members.

§12–111.

(a) The Authority may obtain funding for its operational expenses from:

(1) a federal or State grant;

(2) filing fees and administrative fees for complaints heard by the Authority as authorized under § 12–112(c)(1) of this subtitle, including:

(i) mailing costs;

(ii) fees for delivery or service of process;

(iii) reproduction costs; and

(iv) staff costs associated with the complaint;

(3) an additional assessment or charge per ticket as authorized under subsection (b) of this section; and

(4) any other source.

(b) The Authority may collect an assessment or a charge not exceeding 5 cents per ticket from an owner–member if the assessment or charge:

(1) is not imposed on a county or a municipal corporation; and

(2) is approved by a two–thirds vote of all members of the Authority.

(c) Except as provided in subsections (a)(2) and (b) of this section, the Authority may not impose a charge or assessment against any person, directly or indirectly, to obtain funding for its operational expenses.

§12–112.

(a) To enforce this subtitle, the Authority:

(1) shall accept and review complaints for violations of this subtitle; and

(2) may recommend necessary enforcement actions.

(b) (1) The Authority shall:

(i) hear complaints for violations of this subtitle:

1. at the request of a probable violator; or

2. after notifying a probable violator that the Authority has scheduled a hearing on its own motion; and

(ii) after a hearing, assess a civil penalty under § 12–135 of this subtitle.

(2) The Authority may reach a settlement instead of assessing a civil penalty.

(3) If a probable violator fails to appear at a scheduled hearing, the Authority may vote to proceed to hear the complaint against the probable violator in the absence of the probable violator.

(c) (1) The Authority may:

(i) establish reasonable complaint filing fees and administrative fees for complaints heard by the Authority; and

(ii) use the services of a third party to collect civil penalties.

(2) If the Authority determines that an individual cannot afford to pay a fee established under paragraph (1)(i) of this subsection, the Authority may exempt the individual wholly or partly from the fee.

(d) The Authority may not assess a civil penalty against a person unless the person:

(1) receives reasonable prior notice of the complaint; and

(2) has an opportunity to be heard under § 12–113 of this subtitle.

§12–113.

(a) In a hearing before the Authority for an alleged violation of this subtitle:

(1) all testimony shall be given under oath administered by the chair or another member of the Authority; and

(2) the proceedings shall be recorded.

(b) The Authority may compel the attendance of a witness by subpoena.

(c) (1) The Authority shall issue its decision in writing, stating the reason for its decision.

(2) A copy of the decision shall be delivered or mailed to all parties to the complaint proceedings.

(d) (1) A person aggrieved by a decision of the Authority may, within 30 days after receiving the decision, request judicial review of the decision by the circuit court.

(2) In accordance with the judicial review and appeals process under the Administrative Procedure Act, the circuit court shall hear and determine all matters connected with the decision of the Authority for which judicial review is requested.

(3) (i) Except as provided in subparagraph (ii) of this paragraph, the costs of the judicial review, including the costs of preparing a record and transcript, shall be paid by the party filing the request for judicial review.

(ii) If the party filing the request for judicial review prevails, the circuit court may require that the costs of the judicial review, including the costs of preparing a record and transcript, be paid by the Authority.

(4) If the request for judicial review is dismissed, the circuit court shall award attorney's fees to the Authority unless the Authority waives the award of attorney's fees.

(e) (1) The record of a hearing conducted under this section, including any record of testimony or evidence offered at the hearing, is not admissible in any administrative or civil proceeding involving the same subject matter or the same parties.

(2) Paragraph (1) of this subsection does not apply to judicial review of the Authority's decision.

§12–114.

Beginning January 1, 2012, the Authority shall report each year to the Governor and, in accordance with § 2–1257 of the State Government Article, the General Assembly on the activities of the Authority and any recommendations of the Authority.

§12–117.

(a) There is a Maryland Underground Facilities Damage Prevention Education and Outreach Fund.

(b) The purpose of the Fund is to cover the costs of:

(1) public education and outreach programs; and

(2) the development of safety procedures to prevent damage to underground facilities.

(c) The Authority shall hold and administer the Fund.

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

(e) The Fund consists of:

(1) civil penalties paid into the Fund under § 12–135 of this subtitle;

(2) investment earnings of the Fund; and

(3) any other money from any other source accepted for the benefit of the Fund.

(f) (1) The Fund may be used only for:

(i) public education and outreach programs for the prevention of damage to underground facilities;

(ii) the development of safety procedures for excavation and demolition projects conducted in the area of underground facilities; and

(iii) with the consent of the Authority members, covering an unexpected shortfall in the operational account of the Authority.

(2) The Authority may make grants to local governments or private entities consistent with the purposes of the Fund.

§12–120.

(a) Except as provided in subsections (b) and (c) of this section, a person that obtains the information required under this subtitle is not excused from:

(1) performing an excavation or demolition in a careful and prudent manner; and

(2) liability for financial damages or injury that results from the excavation or demolition.

(b) If an underground facility is damaged by a person that fails to comply with this subtitle, the person is deemed negligent and is liable to the owner for the total cost of repair of the underground facility, unless the owner has failed to become an owner–member in accordance with § 12–123 of this subtitle.

(c) If an underground facility is damaged by a person that is in compliance with this subtitle and the owner has failed to become an owner–member in accordance with § 12–123 of this subtitle:

(1) the person is not liable to the owner for the cost of repair of the underground facility; and

(2) the owner is liable for any repairs or restoration of property damaged by the excavation or demolition.

(d) Subsection (c) of this section may not be construed to interfere with the right of:

(1) a third party to recover financial damages arising out of the excavation or demolition from the person or from the owner; or

(2) the person to seek contribution from an owner for financial damages sought by a third party under paragraph (1) of this subsection.

§12–121.

(a) (1) This section applies to any action taken to address an emergency from the time the emergency arises until a standard ticket is initiated and valid under § 12–124 of this subtitle, including any work associated with stopping or mitigating the emergency.

(2) Subject to § 12–120(b) of this subtitle, if all reasonable precautions have been taken to protect underground facilities, § 12–120(a) of this subtitle and §§ 12–122 through 12–135 of this subtitle do not apply to an emergency excavation or demolition being performed to prevent danger to life, health, or property.

(b) A primary contractor or a person performing an emergency excavation or demolition to prevent or mitigate loss of or injury to life, health, property, or an essential public service shall:

(1) identify the location and extent of work, as stated in § 12–124(b)(1) of this subtitle, in a clear and concise manner;

(2) take all reasonable precautions to protect underground facilities in and near the excavation or demolition area; and

(3) immediately notify the one–call system serving the geographic area where the emergency excavation or demolition is performed to inform the appropriate owner–members of the excavation or demolition area.

(c) (1) The owner–member or its contract locator shall:

(i) respond to an emergency notice as soon as possible but not later than 2 hours from the transmission of the ticket from the one–call system; and

(ii) except for circumstances beyond an owner–member's or contract locator's control and for municipal corporations, considering the hours of operation and availability of employees:

1. begin the locating process to mark their respective underground facility or facilities within 3 hours after the transmission of the ticket; or

2. if the facility owner has no underground facilities within the delineated excavation area, clear the ticket within 3 hours after the transmission of the ticket.

(2) The person responsible for the excavation shall be on site or in communication with the owner–member, their contract locator, or their representative within 3 hours after the transmission of the ticket by the one–call system, or a mutually agreed response time.

(3) The owner–member or its contract locator shall respond to the underground facilities information exchange system as soon as:

(i) the extent of work is marked; or

(ii) it is determined that no underground facilities are in the delineated area.

(d) A person that abuses the emergency excavation and demolition procedure set forth in this section is subject to penalties under § 12–135 of this subtitle.

§12–122.

(a) Except as provided in subsection (b) of this section, a person that operates a one–call system in the State shall register with and obtain certification to operate from the Commission.

(b) A person operating a one–call system on or before July 1, 1990, is automatically registered with and certified by the Commission to continue to operate.

(c) (1) The operator of a one–call system shall install and make available an underground facilities information exchange system in its one–call system in the State.

(2) The underground facilities information exchange system shall be available to any caller at all times.

(d) The Commission may grant, amend, or revoke the certification of a person operating a one–call system.

§12–123.

(a) (1) An owner shall be a member of a one–call system.

(2) Except as provided in paragraph (3) of this subsection, an owner becomes a member of a one–call system by registering with the one–call system.

(3) The Department of Transportation, its administrations, and the Maryland Transportation Authority shall become members of the one–call system through a separate agreement and using the information collected under § 12–124(b)(2) of this subtitle.

(b) (1) An owner–member of a one–call system shall submit to the one–call system, in writing, the telephone number of the person to which calls concerning proposed excavations or demolitions shall be directed.

(2) An owner–member shall ensure that all contact information provided to the one–call system remains current.

§12–124.

(a) Before performing excavation or demolition in the State, a person:

(1) shall initiate a ticket request by notifying the one–call system serving the geographic area where the excavation or demolition is to be performed;

(2) shall select a start work date that commences:

(i) not sooner than 3 business days after the ticket is initiated; and

(ii) not later than 12 business days after the ticket is initiated; and

(3) may add a temporary excavator to an existing ticket.

(b) Notice provided to a one–call system under subsection (a) of this section shall indicate:

(1) the location of the proposed excavation or demolition;

(2) whether the proposed excavation or demolition is within rights–of–way owned or controlled by the Department of Transportation, an administration of the Department of Transportation, or the Maryland Transportation Authority and, if so, the entity and the permit number or authorization number obtained from that entity;

(3) the type and extent of work to be performed in connection with the proposed excavation or demolition; and

(4) the correct name of and contact information for the temporary excavator, if any, performing work under the ticket.

(c) (1) Except as provided in paragraph (2) of this subsection, on receiving notice, the one–call system shall promptly transmit a copy of the ticket to all owner–members in the geographic area indicated for that ticket.

(2) Based on information collected under subsection (b)(2) of this section, the one–call system shall promptly transmit a copy of the ticket to the Department of Transportation, an administration of the Department of Transportation, or the Maryland Transportation Authority, as applicable.

(3) (i) The ticket shall include a response date and time for owner–members or their contract locators that corresponds with the start work date selected by the person who initiated the ticket.

(ii) A ticket is valid for 12 business days after the selected start work date on a ticket that is transmitted by the one–call system to an owner–member or their contract locator.

§12–125.

(a) A person shall repeat the notification required under § 12–124 of this subtitle if the person:

(1) has not completed or will not complete the excavation or demolition within the time period authorized by the ticket;

(2) expands the excavation or demolition beyond the location indicated in the notice under § 12–124(b) of this subtitle; or

(3) adds a temporary excavator to the ticket.

(b) If a person discovers that a mark is obliterated, destroyed, or removed, or observes a visible indication that an underground facility or structure is not marked as required under § 12–126 of this subtitle, the person shall notify the one–call system to request that all or part of the current scope of work of a valid ticket be re–marked.

(c) A person shall repeat the notification regardless of:

(1) any delays by an owner–member in marking its underground facilities; or

(2) an agreement between the person and an owner–member regarding the time for marking underground facilities.

(d) Any re–marking made after a notification provided under this section shall comply with the requirements of § 12–126 of this subtitle.

§12–126.

(a) An owner–member or its contract locator shall mark its underground facility if a proposed excavation or demolition that is specified in the extent of work contained in the ticket:

(1) is within 5 feet of the horizontal plane of the underground facility; or

(2) because of planned blasting, is so near to the underground facility that the underground facility may be damaged or disturbed.

(b) (1) An owner–member or its contract locator shall mark the location of its underground facility as specified under subsection (a) of this section by marking

on the ground within 18 inches on a horizontal plane on either side of the underground facility.

(2) (i) When marking the location of an underground facility, an owner–member or its contract locator shall use the color codes established by the American Public Works Association for marking underground facilities in effect at the time of marking.

(ii) If two or more owner–members share the same color code, each owner–member or its contract locator shall include information with the marking that indicates the owner–member of the marked underground facility.

(c) Except as provided in subsection (d) of this section, within 2 business days after the day on which a ticket is transferred to an owner–member or before the selected start work date, the owner–member or its contract locator shall:

(1) mark the location of the owner–member's underground facility and report to the underground facilities information exchange system that the underground facility has been marked; or

(2) report to the underground facilities information exchange system that the owner–member has no underground facilities in the vicinity of the planned excavation or demolition.

(d) (1) If an owner–member or its contract locator is unable to mark the location of the owner–member's underground facility within the time period prescribed in subsection (c) of this section because of the scope of the proposed excavation or demolition, the owner–member shall:

(i) promptly notify the underground facilities information exchange system and the person that intends to perform the excavation or demolition; and

(ii) work with the person that intends to perform the excavation or demolition to develop a documented agreement for marking the underground facility.

(2) If the owner–member or its contract locator and person that intends to perform the excavation or demolition cannot reach a mutually documented agreement for marking under paragraph (1) of this subsection, the owner–member or its contract locator shall mark that portion of the site where excavation or demolition will first occur, and the owner–member or its contract locator shall mark the remainder of the site within a reasonable time.

(3) If, due to circumstances beyond the control of an owner–member or its contract locator and for reasons other than those specified in paragraph (1) of this subsection, an owner–member or its contract locator is unable to mark the location of the owner–member's underground facility within the time period prescribed in subsection (c) of this section, the owner–member or its contract locator shall report to the underground facilities information exchange system that an extension is required.

(4) In connection with extensive or contiguous excavation or demolition projects, the person performing the excavation or demolition and the owner–member or its contract locator may establish a working agreement regarding the time periods for marking the underground facility.

§12–127.

(a) A person that intends to perform excavation or demolition may begin excavation or demolition activity only after the person receives notification from the underground facilities information exchange system of the one–call system confirming that all applicable owner–members or their contract locators have:

(1) marked their underground facilities in accordance with § 12–126(c) of this subtitle;

(2) marked the applicable portion of their underground facilities in accordance with § 12–126(d) of this subtitle; or

(3) reported that they have no underground facilities in the vicinity of the excavation or demolition.

(b) (1) After an owner–member or its contract locator has marked the location of an underground facility in accordance with § 12–126 of this subtitle, the person performing the excavation or demolition is responsible for the maintenance of the designated mark.

(2) If the mark is obliterated, destroyed, or removed, the person:

(i) shall repeat the notification required under § 12–125 of this subtitle; but

(ii) may not in any manner replace or repair the mark.

(c) (1) A person performing excavation or demolition or supervising a temporary excavator shall have a copy of the ticket issued by a one–call system available, by any means, on the site of the activity for the duration of the ticket.

(2) A person performing an excavation or demolition shall exercise due care to avoid interference with or damage to an underground facility:

(i) that an owner–member or its contract locator has marked in accordance with § 12–126 of this subtitle; or

(ii) where clear evidence of an unmarked underground facility exists.

(3) Before using mechanized equipment for excavation or demolition within 18 inches of an underground facility marking, a person shall expose the underground facility to its outermost surfaces by hand or other nondestructive techniques.

(4) When utilizing a trenchless technology method, to prevent the occurrence of a cross–bore, a person shall expose by nondestructive techniques intersecting underground facilities to the depth of the excavation plus 18 inches in the path of the trenchless technology operation during the entire trenchless installation operation.

(5) A person may not use mechanized equipment to excavate within 18 inches of the outermost surface of an exposed underground facility.

(d) (1) The person performing an excavation or demolition shall promptly report to the owner–member of the facility if the person discovers or causes any damage to or dislocation or disturbance of an underground facility in connection with the excavation or demolition.

(2) If the damage, dislocation, or disturbance results in the escape of a flammable, toxic, or corrosive gas or liquid, the person performing the excavation or demolition immediately shall report the damage to the 9–1–1 emergency system.

(e) (1) If a person knows or has reason to know that an underground facility in the area of a planned or ongoing excavation or demolition is not marked as required by this subtitle, the person may not begin or continue the excavation or demolition unless the person:

(i) has repeated the notification as required under § 12–125 of this subtitle; and

(ii) receives notification from the underground facilities information exchange system of the one–call system confirming that all applicable

owner–members that have underground facilities in the vicinity of the excavation or demolition have marked:

1. the underground facilities in accordance with § 12–126(c) of this subtitle; or

2. the applicable portion of the underground facilities in accordance with § 12–126(d) of this subtitle.

(2) If the underground facility is not marked as required by this subtitle after the person receives notification from the underground facilities information exchange system under paragraph (1) of this subsection, the person may proceed with the excavation or demolition.

§12–128.

(a) A political subdivision, municipal corporation, the Department of Transportation, an administration of the Department of Transportation, or the Maryland Transportation Authority may charge, assess, or collect from a person a one–time initial marking fee not exceeding $35 for reimbursement of expenses that the political subdivision, municipal corporation, the Department of Transportation, an administration of the Department of Transportation, or the Maryland Transportation Authority incurs to comply with this subtitle.

(b) If re–marking is requested, or is required after renotification under § 12–125 of this subtitle, a political subdivision, municipal corporation, or any of the transportation entities specified in subsection (a) of this section may charge, assess, or collect from a person a re–marking fee not exceeding $15 for reimbursement of expenses that the political subdivision, municipal corporation, or any of the transportation entities specified in subsection (a) of this section incurs to comply with this subtitle.

§12–129.

(a) Subject to subsection (c) of this section, any new or replacement piping that is buried or installed for the purposes of connecting a building to a water supply system, a sewerage system, an underground storm drain system, or any other applicable device shall be buried or installed with a wire or an equivalent product or technology that makes the piping detectable or locatable.

(b) Any wire used to comply with subsection (a) of this section shall:

(1) be an insulated copper tracer wire that is suitable for direct burial and has an American wire gauge (AWG) of at least 10, or an equivalent product;

(2) be installed:

(i) in the same trench as the piping that connects the building to the water supply system or the sewerage system;

(ii) within 12 inches of the piping that connects the building to the water supply system or the sewerage system; and

(iii) with at least one end of the wire terminating above grade in a location that is accessible and resistant to physical damage, such as in a cleanout or next to an external wall of the building; and

(3) run from within 5 feet of an external wall of the building to:

(i) the point where the piping intersects with the water supply system or the sewerage system; or

(ii) the point where the sewerage system disposes of or processes the sewage.

(c) The requirement of subsection (a) of this section with regard to replacement piping connecting a building to a water supply system or a sewerage system:

(1) applies only to a complete replacement of the piping; and

(2) does not apply to a repair or a partial replacement of the piping.

§12–130.

(a) (1) This section applies to a primary contractor that:

(i) performs the excavation duties for the duration of a ticket;

(ii) initiates the notification to the one–call system to establish a ticket;

(iii) is on site to supervise all activities and employees; and

(iv) intends to utilize services or equipment of a temporary excavator.

(2) For purposes of this section, a primary contractor does not include a private homeowner that intends to hire a temporary excavator.

(b) A primary contractor:

(1) shall:

(i) notify the one–call system when a temporary excavator is to begin work under the ticket;

(ii) inform the temporary excavator of the exact scope of work as detailed on the existing ticket;

(iii) directly supervise the on–site activities of the temporary excavator; and

(iv) assume all liability if damage should occur to an underground facility by any person named as a temporary excavator on the existing ticket; and

(2) may name only one temporary excavator for the duration of the ticket.

(c) (1) A temporary excavator may be:

(i) a piece of rental equipment and its operator;

(ii) an excavation contractor that is not an employee of the primary contractor; or

(iii) an equipment operator that is not a direct employee of the primary contractor.

(2) The designated temporary excavator shall notify the one–call system with the associated ticket number to verify that the excavator has been hired to work for the primary contractor.

§12–131.

(a) In connection with a project that may require excavation or demolition, a person may initiate a nonexcavation designer ticket request by notifying the one–call system serving the geographic area covering the planned project in accordance with this section.

(b) (1) In connection with a project that may require excavation or demolition, a person initiating a nonexcavation designer ticket request under this section:

(i) may initiate only one ticket request for a single project by notifying the one–call system serving the geographic area covering the planned project; and

(ii) shall, in connection with a nonexcavation designer ticket request:

1. indicate that the request is for design purposes only and may not be used for the purpose of excavation or demolition;

2. notify the one–call system of any owner–members from which the person does not require underground facilities information; and

3. on the request of an owner–member, provide the owner–member with a preliminary drawing that indicates the scope of the project.

(2) The one–call system shall provide the person requesting a nonexcavation designer ticket an accurate means of contact for each underground facility within 2 business days.

(3) Each underground facility owner shall maintain current valid contact information with the one–call system for persons to contact.

(c) (1) Within 15 business days after receiving notice from a one–call system that a person has made a request under this section, an owner–member of an underground facility in the area of the project shall notify the person of the type and approximate location of the underground facility.

(2) An owner–member may provide notice of the approximate location of an underground facility through the use of:

(i) field locates;

(ii) maps;

(iii) surveys;

(iv) installation records; or

(v) other similar means.

(d) In the case of an obstruction caused by a suspected cross–bore:

(1) the person intending to remove the obstruction shall notify the one–call system and request a nonexcavation ticket for a suspected cross–bore which will be transmitted to all pertinent owner–members in the geographic area indicated for that ticket; and

(2) each owner–member shall take whatever action it considers necessary to respond to this notification.

(e) (1) Information provided to a person requesting marking under this section is for informational purposes only.

(2) An owner–member or agent of an owner–member may not be held liable for any inaccurate information provided to a person under this section.

§12–134.

(a) To stop or prevent a negligent or unsafe excavation or demolition, an owner or the Attorney General may file an action for a writ of mandamus or injunction in a court of competent jurisdiction in Baltimore City or the county in which the excavation or demolition is being performed or is to be performed or in which the person resides or has its principal place of business, if the person:

(1) is performing an excavation or demolition in a negligent or unsafe manner that has resulted in or is likely to result in damage to an underground facility; or

(2) is intending to use procedures to carry out the excavation or demolition that are likely to result in damage to an underground facility.

(b) (1) To make its judgment or processes effective, the court may join as parties any persons necessary or proper.

(2) If appropriate, the court shall issue a final order granting the injunction or writ of mandamus.

§12–135.

(a) (1) A person that performs an excavation or demolition without first providing the notice required under § 12–124(a) of this subtitle is deemed negligent and is subject to a civil penalty assessed by the Authority.

(2) The Authority shall calculate the civil penalty considering:

(i) the severity of the violation;

(ii) the intent and good faith of the violator; and

(iii) the past history of violations.

(3) The civil penalty may not exceed:

(i) $2,000 for the first offense; and

(ii) $4,000 for each subsequent offense.

(4) A person that violates any other provision of Part IV of this subtitle is subject to a civil penalty assessed by the Authority not exceeding:

(i) $2,000 for the first offense; and

(ii) $4,000 for each subsequent offense.

(5) Instead of or in addition to assessing a civil penalty under this subsection, the Authority may:

(i) require that a person:

1. participate in damage prevention training; or

2. implement procedures to mitigate the likelihood of damage to underground facilities; or

(ii) impose other similar measures.

(6) (i) For purposes of paragraphs (3)(ii) and (4)(ii) of this subsection, the Authority may not consider an offense to be a subsequent offense if the offense occurred at least 3 years after the earlier offense unless:

1. the earlier offense is unresolved, regardless of the age of the earlier offense; or

2. the person has not met the conditions of an assessed penalty within the time period prescribed.

(ii) In the case of an unresolved earlier offense or a failure to meet the conditions under subparagraph (i) of this paragraph, the Authority may assess up to double the maximum civil penalty for each violation.

(7) A person that fails to appear before the Authority without cause, after proper notification of a scheduled hearing, may be subject to a $200 fine in addition to any civil penalty assessed by the Authority.

(8) A person that files an emergency ticket that does not meet the definition of emergency under § 12–101 of this subtitle may be subject to the maximum penalties available under this subsection.

(b) (1) This subsection applies if a proceeding has not been initiated before the Authority.

(2) A court of competent jurisdiction may assess a civil penalty of up to 10 times the cost of repairs to the underground facility caused by the damage, dislocation, or disturbance against a person that has committed a subsequent offense under subsection (a)(1) of this section.

(3) An action to recover a civil penalty under this subsection shall be brought by an owner of a damaged, dislocated, or disturbed underground facility or the Attorney General in a court of competent jurisdiction in Baltimore City or the county in which the damage, dislocation, or disturbance occurred.

(4) The party bringing an action under this subsection may recover reasonable attorney's fees.

(c) The Authority may not assess a civil penalty under subsection (a)(3)(ii) of this section if an action to recover a civil penalty has been brought under subsection (b) of this section.

(d) All civil penalties recovered under this section shall be paid into the Fund.

§12–301.

(a) In this subtitle the following words have the meanings indicated.

(b) (1) "Communication service" means the transmission of intelligence by electrical means.

(2) "Communication service" includes the transmission of intelligence by telephone lines, telegraph lines, messenger–call, police, fire alarm,

and traffic control circuits and circuits used to transmit standard television or radio signals.

(c) "Conversion" means to convert an overhead electric or communication facility.

(d) "Convert" means to remove all or part of an existing overhead electric or communication facility and to replace it at the same or another location with an underground electric or communication facility.

(e) (1) "Electric or communication facility" means a works or improvement used or useful in providing electric service or communication service.

(2) "Electric or communication facility" includes poles, supports, tunnels, manholes, vaults, conduits, ducts, pipes, wires, conductors, guys, stubs, platforms, crossarms, braces, transformers, insulators, cutouts, switches, capacitors, meters, communication circuits, appliances, attachments, and appurtenances.

(3) "Electric or communication facility" does not include a facility that:

(i) uses or is intended to be used to transmit electricity at nominal voltages in excess of 35,000 volts; or

(ii) is owned, used by, or provided for a railroad or pipeline and located on or above the right–of–way of the railroad or pipeline.

(f) "Electric service" means the distribution of electricity for heat, light, or power.

(g) (1) "Public agency" means a county, municipal corporation, special district, or public corporation that provides electric service or communication service to the public by means of an electric or communication facility.

(2) "Public agency" does not include a county, municipal corporation, special district, or public corporation that conducts a proceeding for a conversion under this subtitle.

(h) "Public utility" means a person that provides electric or communication facilities.

§12–302.

(a) The General Assembly finds that, in many areas of the State, landowners, cities, counties, municipal corporations, public agencies, and public utilities desire to convert existing overhead electric or communication facilities to underground locations through proceedings under this subtitle.

(b) The General Assembly declares that:

(1) a public purpose will be served by providing a procedure to convert existing overhead electric or communication facilities to underground locations; and

(2) it is in the public interest to provide for a conversion through proceedings established under this subtitle.

§12–303.

This subtitle does not apply in Baltimore County.

§12–304.

(a) This subtitle does not limit the authority of the Commission under this article, the Maryland Constitution, or any other law whether by statute or court decision.

(b) This subtitle does not limit the authority of the Commission to determine whether, in what manner, and by whom costs are to be assessed, paid, recovered, or absorbed when an underground electric or communication facility is converted, constructed, operated, maintained, repaired, replaced, or enlarged.

§12–305.

A county or municipal corporation shall adopt rules and regulations to carry out this subtitle.

§12–306.

Proceedings under this subtitle may be used to:

(1) convert an existing electric or communication facility; and

(2) construct, reconstruct, or relocate any other related electric or communication facility.

§12–307.

(a) Proceedings for a conversion must be initiated by petition filed under § 12-308 of this subtitle.

(b) The petition shall:

(1) define generally the proposed conversion;

(2) request that proceedings for the proposed conversion be initiated under this subtitle; and

(3) describe the proposed conversion district by:

(i) specifying its exterior boundaries;

(ii) providing a description of the proposed conversion district according to an official or recorded map; or

(iii) referring to a plat or map filed with the petition that indicates the proposed conversion district by boundary line.

(c) (1) A petition for proceedings for a conversion must be signed by not less than 20 landowners within the proposed conversion district whose property constitutes more than 80% of the assessed value of property within the proposed conversion district.

(2) For purposes of this subsection, the assessed value of the property shall be determined by the last assessment roll used by the county or municipal corporation.

§12–308.

(a) The petition shall be filed with the clerk of the legislative body of the county or municipal corporation in which the proposed conversion district is located.

(b) After a petition is filed under subsection (a) of this section, the clerk shall review the petition.

(c) If the petition is signed by the number of qualified landowners required under § 12-307 of this subtitle, the clerk shall execute a certificate of sufficiency and present the petition and certificate to the legislative body.

§12–309.

(a) On presentation of the petition and the certificate of sufficiency from the clerk under § 12-308 of this subtitle, the legislative body of the county or municipal corporation may adopt a resolution that declares its intent to:

(1) order the conversion described in the petition; and

(2) enter into an agreement with a public agency or public utility that provides for plans and specifications, contributions of labor, materials, or money, and payment for any work, improvement, or service proposed under the petition.

(b) In addition to a general description of the proposed conversion and the proposed conversion district, the resolution of intent shall contain a notice that states the date, hour, and place at which a person with an objection to the proposed conversion may appear at a public hearing before the legislative body, or its designated committee, and show cause why the proposed conversion should not be carried out in accordance with the resolution of intent and why a resolution ordering the conversion should not be adopted.

(c) The public hearing required by subsection (b) of this section shall be held not less than 15 days and not more than 60 days after the date the resolution of intent is adopted.

(d) (1) A legislative body, or its designated committee, need not provide notice and a public hearing under this section if, when considering the adoption of a resolution of intent, the legislative body finds and determines by four-fifths vote that, on or before the fifth day before the day that the resolution of intent will be considered for adoption, all of the landowners, or their agents, within the proposed conversion district to be assessed have signed and filed a petition with the clerk of the legislative body waiving their right to a public hearing.

(2) A petition filed under paragraph (1) of this subsection shall include:

(i) a statement that, to the extent of the proposed conversion district to be assessed, the landowners do not object to the proposed conversion, or to an agreement proposed to be made under § 12-311 of this subtitle, and do not have any other objection; and

(ii) a request that the legislative body, or its designated committee, not hold a public hearing.

(e) (1) During the 15 days after the public hearing, if held, landowners within the proposed conversion district may certify the withdrawal of their names from the petition for conversion.

(2) A petition for conversion shall be considered withdrawn if the number of landowners certifying their withdrawal is such that the remaining signatures of landowners on the petition constitute less than 50% of the total assessed value within the proposed conversion district.

§12–310.

(a) After receipt of a petition under § 12-308 of this subtitle, the legislative body of the county or municipal corporation shall order an investigation and a report on the petition.

(b) (1) The report shall include:

(i) the nature of the conversion;

(ii) the estimated cost of the conversion and the proceedings for the conversion;

(iii) funds available from other sources to pay the costs of conversion;

(iv) existing assessments;

(v) the estimated conversion costs on each parcel; and

(vi) the maturity date and probable interest rate of any bonds to be issued.

(2) Engineering details and cost estimates included in the report may not be in any greater detail than necessary for the formulation of a judgment on the feasibility and expense of the proposed conversion.

(c) The report shall be available to the public:

(1) when the notice required under § 12-309 of this subtitle is published; and

(2) at the public hearing, if held, established in the notice.

§12–311.

(a) In a proceeding for a conversion, the county or municipal corporation and any public agency or public utility supplying electric service or communication service with the county or municipal corporation shall provide by agreement that:

(1) at the start or on completion of the conversion, the public agency or public utility has legal title to the electric or communication facilities; and

(2) the electric or communication facilities are:

(i) a part of the system of the public agency or public utility; and

(ii) to be used, operated, maintained, and managed by the public agency or public utility as part of its system.

(b) Subject to any rules, regulations, or tariffs applicable to the public agency or public utility, the agreement also shall provide for the following:

(1) the supplying of or approval by the public agency or public utility of plans and specifications related to the conversion and labor or materials to be used in the conversion; and

(2) the performance by the public agency or public utility of all or part of the conversion or improvements and payment to the public agency or public utility for the conversion or improvements.

(c) An agreement made under this section must be made before the legislative body of the county or municipal corporation adopts a resolution ordering the conversion.

(d) (1) If the proceeding for a conversion is discontinued:

(i) any agreement made under this section is void;

(ii) the petitioners shall reimburse the public agency or public utility for engineering and other preliminary expenses incurred that exceed $2,500; and

(iii) the petitioners or the county or municipal corporation may not reimburse the public agency or public utility for engineering and other preliminary expenses incurred that are $2,500 or less.

(2) If the proposed conversion is completed, any engineering and other preliminary expenses incurred by the public agency or public utility shall be included as part of the cost of the conversion.

(e) Before an agreement made under this section takes effect, the Commission may conduct proceedings and shall:

(1) determine that the agreement is in the public interest; and

(2) issue an order to approve the agreement, disapprove the agreement, or approve the agreement subject to specified conditions.

§12–312.

(a) After approval by the Commission of an agreement under § 12-311 of this subtitle and, if required, a public hearing in accordance with § 12-309 of this subtitle, the legislative body of the county or municipal corporation may adopt a resolution ordering the conversion to be completed in accordance with the resolution.

(b) The resolution shall include:

(1) a description of the proposed conversion district;

(2) the method of financing the conversion costs, including:

(i) the issuance of bonds or other evidence of indebtedness;

(ii) an advance from the general fund of the county or municipal corporation; or

(iii) direct payment by the landowners in the conversion district of their respective shares of the conversion costs; and

(3) the amount and duration of property taxes to be levied in the conversion district each year for repayment of any bonds, evidence of indebtedness, or any advances from the general fund of the county or municipal corporation.

§12–313.

(a) Subject to applicable rules, regulations, tariffs, or ordinances, the landowner is responsible for the costs of construction, reconstruction, relocation, or conversion of all electric or communication facilities of a public agency or public utility from the point of attachment of the electric or communication facility to any improvements located on the landowner's property within a conversion district.

(b) (1) The contractor, public agency, public utility, county, or municipal corporation performing the conversion is responsible for the conversion of all electric or communication facilities to the point of attachment to any improvements located on property within the conversion district.

(2) The conversion costs incurred under paragraph (1) of this subsection shall be included in the total conversion costs that are to be assessed against the property.

§12–314.

(a) (1) At least 15 days before the date of commencement of construction, the clerk of the legislative body of the county or municipal corporation shall mail a notice to each landowner within the conversion district that informs the landowner of the provisions of § 12-313 of this subtitle.

(2) The clerk shall use the names and addresses from the most recent property assessment roll of the county or municipal corporation, or as otherwise known by the clerk.

(b) The notice mailed under subsection (a) of this section shall include a statement that, unless the landowner complies with the requirements of § 12-313 of this subtitle, all buildings, structures, and other improvements located on the property may be disconnected from the overhead electric or communication facilities that provide electric service or communication service to the buildings, structures, or other improvements.

§12–315.

(a) If a landowner fails to comply with § 12-313 of this subtitle, all overhead electric or communication facilities providing electric service or communication service to any building, structure, or other improvement on the property shall be disconnected and removed.

(b) At least 5 days before the disconnection, the landowner shall be provided written notice of the disconnection by leaving a copy of the notice at the principal building, structure, or other improvement located on the property.

§12–316.

(a) This section does not authorize a county or municipal corporation to avoid compliance with any competitive bidding requirements for a conversion or improvement to be performed by a private contractor.

(b) Provisions in State, county, or municipal law that require competitive bidding do not apply to a conversion or improvement performed by:

(1) a county, municipal corporation, public agency, or public utility; or

(2) a department, agency, commission, or office of a county or municipal corporation.

§12–317.

(a) In accordance with its charter or a public general law or public local law, a county or municipal corporation may issue bonds or other evidence of indebtedness to carry out this subtitle.

(b) To pay the principal and interest on bonds or other evidence of indebtedness or an advance from its general fund, a county or municipal corporation may levy property taxes on the assessed value of all real property and classes of assessable personal property within the conversion district.

§13–101.

(a) This section does not apply to a violation of the following provisions of this article:

(1) Title 5, Subtitle 4;

(2) Title 7, Subtitle 1;

(3) Title 8, Subtitles 1 and 3; and

(4) Title 9, Subtitle 3.

(b) A person may not fail, neglect, or refuse to comply with any provision of this division or any effective and outstanding direction, ruling, order, rule, regulation, or decision of the Commission.

(c) An individual who knowingly violates or knowingly aids or abets a public service company in the violation of subsection (b) of this section or any provision of this division:

(1) is guilty of a misdemeanor; and

(2) unless a different punishment is specifically provided by law, on conviction is subject to a fine not exceeding $1,000 for a first offense and not exceeding $5,000 for each additional or subsequent offense.

§13–201.

(a) This section does not apply to a violation of the following provisions of this article:

(1) Title 5, Subtitle 4;

(2) Title 7, Subtitle 1;

(3) § 7–213 as it applies to electric cooperatives;

(4) Title 8, Subtitles 1 and 3;

(5) Title 9, Subtitle 3; and

(6) Title 8, Subtitle 4.

(b) (1) Except as provided in paragraph (2) of this subsection, the Commission may impose a civil penalty not exceeding $25,000 against a person who violates a provision of this division, or an effective and outstanding direction, ruling, order, rule, or regulation of the Commission.

(2) The civil penalty that the Commission may impose on a common carrier for each violation may not exceed $2,500.

(c) (1) A civil penalty may be imposed in addition to any other penalty authorized by this division.

(2) Each violation is a separate offense.

(3) Each day or part of a day the violation continues is a separate offense.

(d) The Commission shall determine the amount of any civil penalty after considering:

(1) the number of previous violations of any provision of this article;

(2) the gravity of the current violation;

(3) the good faith efforts of the violator in attempting to achieve compliance after notification of the violation; and

(4) any other matter that the Commission considers appropriate and relevant.

(e) (1) Except as provided in paragraphs (2) and (3) of this subsection, a civil penalty collected under this section shall be paid into the Resiliency Hub Grant Program Fund established under § 9–2011 of the State Government Article.

(2) A civil penalty assessed for a violation of a service quality and reliability standard under § 7–213 of this article shall be paid into the Electric Reliability Remediation Fund under § 7–213(j) of this article.

(3) A civil penalty assessed for a violation of § 7–317, § 7–318, § 7–505(b)(7), § 7–507, § 7–603, § 7–603.1, § 7–604, § 7–606, or § 7–707 of this article, or a rule, an order, or a regulation adopted under any of those sections, shall be paid into the Education and Protection Fund under § 7–310 of this article.

§13–202.

(a) In this section, "safety violation" means a condition or activity likely to cause injury or harm to an individual or property.

(b) This section does not apply to a safety violation by a gas company that is subject to § 13–203 of this subtitle.

(c) (1) Subject to paragraph (2) of this subsection, a public service company that violates a provision of this division that relates to safety is subject to a civil penalty not exceeding $25,000 for each violation for each day that the violation persists.

(2) For a common carrier, the maximum civil penalty may not exceed $500 for each violation or related series of violations stemming from a single safety inspection.

(d) In determining the amount of a civil penalty imposed under this section, the Commission shall consider the:

(1) appropriateness of the penalty to the size of the public service company;

(2) number of previous violations of this article by the public service company;

(3) gravity of the current violation; and

(4) good faith of the public service company in attempting to achieve compliance after notification of the violation.

(e) The public service company involved may request reconsideration of a penalty imposed under this section within 30 days after the date of notification of the determination.

§13–203.

(a) A gas company or gas master meter operator that violates any of the Commission's standards of safe service or other regulation related to safety adopted under § 5-101 of this article is subject to a civil penalty determined by the Commission that does not exceed the maximum penalties provided in Title 49, Chapter 601 of the U.S. Code (Federal Natural Gas Pipeline Safety Act):

(1) for each violation for each day or part of a day that the violation continues; and

(2) for a related series of violations.

(b) Within 30 days after the date of notification of the determination, the gas company or gas master meter operator involved may request reconsideration to obtain a compromise.

(c) In determining the amount of a civil penalty or compromise, the Commission shall consider the:

(1) appropriateness of the penalty to the size of the gas company or gas master meter operator;

(2) gravity of the current violation; and

(3) good faith of the gas company or gas master meter operator in attempting to achieve compliance after notification of the violation.

(d) The amount of the penalty, when finally determined or agreed on in compromise, may be:

(1) deducted from any amount that the State owes to the gas company or gas master meter operator; or

(2) recovered in a civil action in State court.

§13–204.

Personnel of the Commission or Office of People's Counsel who are convicted of violating Title 2, Subtitle 3 of this article shall, in addition to any other penalties, be removed or discharged from office.

§13–205.

A public service company is subject to a fine of $100 for each day beyond 30 days after the deadline set by the Commission that the public service company fails to:

(1) file its annual report with the Commission in accordance with Title 6, Subtitle 2 of this article;

(2) make a report or furnish information that the Commission requests or requires; or

(3) fails to give a full, specific, and responsive answer to any question reasonably directed to it by the Commission.

§13–206.

An individual who violates a provision of this division concerning for–hire driving services is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $50 for a first offense and not exceeding $100 for each additional or subsequent offense.

§13–207.

A contract, assignment, or transfer in violation of this division is void.

§13–208.

(a) In addition to any otherwise available remedy, the Commission may summarily order a person who is subject to the jurisdiction of the Commission to cease and desist from an act or practice if the Commission determines from specific facts shown by affidavit or other statement made under oath that:

(1) the person has engaged in an act or practice that constitutes a violation of any provision of this division or any order or regulation adopted under this division that directly concerns consumer protection or public safety;

(2) immediate, substantial, and irreparable harm will result before the affected person could have an opportunity to respond to the facts alleged;

(3) the need for the immediate issuance of a summary cease and desist order outweighs the affected person's right to receive notice and be heard before issuance of the order; and

(4) issuance of the summary cease and desist order is in the public interest.

(b) A summary cease and desist order issued by the Commission under subsection (a) of this section shall:

(1) be personally and promptly served on the affected person or the person's legal representative;

(2) be effective only after it is served under item (1) of this subsection;

(3) identify the date and hour of issuance;

(4) define the harm that the Commission finds will result if the summary cease and desist order is not issued;

(5) state the basis for the Commission's finding that the harm will be immediate, substantial, and irreparable;

(6) state that any person affected by the summary cease and desist order may immediately apply to have the order modified or vacated by the Commission;

(7) state that the Commission may modify or vacate the summary cease and desist order as requested or may set the matter for hearing under subsection (c) of this section; and

(8) provide notice of the opportunity for an evidentiary hearing to determine whether the summary cease and desist order should be modified, vacated, or entered as final.

(c) (1) Within 15 calendar days after the date and hour of successful service of the summary cease and desist order, the affected person may file a request for an evidentiary hearing with the Commission on the propriety of a final order.

(2) If the Commission receives a request for an evidentiary hearing on the propriety of a final order from the affected person within the time limit in paragraph (1) of this subsection, the Commission shall complete the evidentiary hearing within 15 calendar days after the date and hour when the request is received.

(3) Within 48 hours after completing the evidentiary hearing requested under paragraph (1) of this subsection, the Commission shall issue a final order in which it shall determine whether the affected person has engaged in an act or practice that is in violation of any provision of this division or any order or regulation adopted under this division that directly concerns consumer protection or public safety.

(4) If the Commission does not receive a request for an evidentiary hearing on the propriety of a final order from the affected person within the time limit in paragraph (1) of this subsection, the summary cease and desist order shall become final.

(d) If the Commission fails to comply with subsection (c)(2) or (3) of this section, the summary cease and desist order is void from the time of issuance.

(e) The Commission may not impose a penalty for a violation of a summary cease and desist order that is void under subsection (d) of this section.

§16–101.

(a) In this division the following words have the meanings indicated.

(b) "Commission" means the Washington Suburban Sanitary Commission.

(c) "Commissioner" means a member of the Washington Suburban Sanitary Commission.

(d) "County" means a county of the State or Baltimore City.

(e) "Family responsibilities" means the legal responsibility for the care and support of a dependent individual.

(f) "Genetic information" has the meaning stated in § 27–909(a) of the Insurance Article.

(g) "Hookup" means a connection between the plumbing on the owner's property and the Commission service connection.

(h) "Municipality" means a municipal corporation that is organized under Article XI–E of the Maryland Constitution.

(i) "Person" means an individual, receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind and any partnership, firm, association, corporation, or other entity.

(j) "Public roadway" means any State, county, or municipal street, road, alley, or highway.

(k) (1) "Sanitary district" means the Washington Suburban Sanitary District, as described in Chapter 805 of the Acts of the General Assembly of 1981.

(2) "Sanitary district" does not include any special exemption provided for by law.

(l) "Service connection" means a lateral service line that is constructed by the Commission from a Commission water or sewer main to a property line.

(m) (1) Except as provided in paragraph (2) of this subsection, "state" means:

(i) a state, possession, territory, or commonwealth of the United States; or

(ii) the District of Columbia.

(2) When capitalized, "State" means Maryland.

§17–101.

(a) There is a Washington Suburban Sanitary Commission.

(b) The Commission has jurisdiction over the sanitary district.

§17–102.

(a) The Commission consists of:

(1) three commissioners from Prince George's County, appointed by the County Executive subject to the confirmation of the County Council; and

(2) three commissioners from Montgomery County, of whom:

(i) two are appointed by the County Executive subject to the confirmation of the County Council; and

(ii) one is the Director of the Montgomery County Department of Environmental Protection, or the Director's designee.

(b) (1) Each commissioner from Prince George's County shall be a resident of the sanitary district.

(2) (i) Except for the commissioner who also serves as the Director of the Montgomery County Department of Environmental Protection, or is the Director's designee, each commissioner from Montgomery County shall be a registered voter of Montgomery County.

(ii) Each commissioner from Prince George's County shall be a registered voter of Prince George's County.

(c) (1) Except as provided in subsection (a)(2)(ii) of this section, an individual may not be appointed or continue in office as a commissioner if the individual holds any other position of profit or trust under the Constitution or laws of the State or any political subdivision of the State.

(2) Not more than two commissioners from Montgomery County may be of the same political party.

(d) (1) This subsection does not apply to the commissioner who also serves as the Director of the Montgomery County Department of Environmental Protection, or the Director's designee.

(2) The term of a commissioner is 4 years and begins on June 1 of the year of appointment.

(3) The terms of commissioners are staggered as required by the terms provided for commissioners on July 1, 1982.

(4) At the end of a term, a commissioner continues to serve until a successor is appointed and takes the oath of office.

(5) A commissioner who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and takes the oath of office.

(e) A vacancy on the Commission does not impair the right of the remaining commissioners to exercise all the powers of the Commission.

(f) A member of the Commission who also serves as the Director of the Montgomery County Department of Environmental Protection, or is the Director's designee:

(1) serves as a voting member of the Commission; and

(2) may serve as the chair or vice chair of the Commission.

§17–103.

(a) (1) The County Executive shall make an appointment from a list of applicants.

(2) The list shall be:

(i) completed at least 3 weeks before the date the appointment is made; and

(ii) open to the public for inspection from the time the list is prepared until the appointment is made.

(3) (i) If an individual is not appointed from the names on the list, the County Executive shall prepare additional lists and follow the procedure under paragraph (2) of this subsection.

(ii) The 3–week period before the date the appointment is made begins with the closing of each list.

(b) (1) Subject to paragraph (2) of this subsection, the County Executive or a designee of the County Executive may interview in private each applicant for appointment or reappointment to the Commission regarding possible or potential conflicts of interest.

(2) Before appointment, the County Executive or a designee of the County Executive shall interview in private an applicant who is selected for appointment to the Commission regarding possible or potential conflicts of interest.

(3) Before appointment, the County Executive of Prince George's County or a designee of the County Executive shall inform the Prince George's County Council of possible or potential conflicts of interest of an applicant who is selected for appointment to the Commission.

(c) (1) A written transcript of an interview under subsection (b) of this section:

(i) shall be made;

(ii) may be reviewed by the applicant, unless the right to review is waived by the applicant;

(iii) may be altered for the applicant by the transcribing officer, if the transcript is accompanied by a statement of the reason given by the applicant for the alteration; and

(iv) shall be signed by the applicant.

(2) The transcribing officer shall certify on the transcript that:

(i) the applicant was sworn by the officer; and

(ii) the transcript is a true record of the testimony given by the applicant.

(3) The County Executive of Montgomery County or a designee of the County Executive shall:

(i) publicly disclose the complete transcribed testimony of an appointee to the Commission 3 weeks after the appointment; and

(ii) destroy immediately the complete transcript of any other applicant without disclosure of any information contained in the transcript.

(d) (1) In Montgomery County, if the County Executive or a designee of the County Executive conducts an interview under subsection (b) of this section, the applicant shall be interviewed:

(i) in a question and answer fashion;

(ii) under oath; and

(iii) about all sources of income, property holdings, business interests, and financial interests of the applicant and the applicant's spouse, father, mother, brother, sister, and child.

(2) The County Executive of Montgomery County or a designee of the County Executive may require the applicant to produce documents.

§17–104.

(a) A commissioner may be removed before the completion of the commissioner's term:

(1) in Montgomery County:

(i) by the County Executive with the approval of a majority of the members of the County Council; or

(ii) unless the County Executive disapproves the resolution in writing within 30 days after its adoption, by resolution of a majority of the members of the County Council; and

(2) in Prince George's County, by the County Executive with the approval of a majority of the members of the County Council.

(b) (1) Unless a hearing is waived in writing by the commissioner designated for removal, before any removal under this section, a public hearing shall be held:

(i) in Montgomery County, by the body initiating the removal proceeding; or

(ii) in Prince George's County, by the County Council.

(2) The commissioner shall be given an opportunity at the hearing to present a defense.

§17–105.

(a) From among its members, the Commission shall elect a chair and a vice chair.

(b) (1) The election of the chair and vice chair shall be at the first meeting of the Commission in June of each year, or as soon after the meeting as possible.

(2) Of the chair and vice chair:

(i) one shall be from Montgomery County and the other shall be from Prince George's County; and

(ii) each office shall alternate annually between Montgomery County and Prince George's County.

(3) (i) By unanimous vote the Commission may waive the provisions of paragraph (2)(ii) of this subsection for 1 year.

(ii) The Commission may not waive the provisions of paragraph (2)(ii) of this subsection for 2 successive years.

(4) Each officer shall serve for 1 year or until a successor is elected.

(c) Each officer shall perform the duties designated by the Commission.

(d) (1) If a vacancy exists in the position of chair or vice chair, the Commission promptly shall elect a new chair or vice chair for the remaining portion of the 1–year term of office.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, if the vacancy in the position of chair or vice chair results from resignation or removal from the Commission, the election to fill the unexpired portion of the officer's term shall be held only after the Commission vacancy has been filled.

(ii) The Commission may elect an acting chair or vice chair to serve until the vacancy has been filled.

§17–106.

(a) The Commission shall determine the times and places of its meetings.

(b) The Commission shall keep minutes in the usual corporate form.

(c) (1) The votes of the commissioners shall be:

(i) taken and recorded for any action that:

1. authorizes, modifies, or rescinds a water or sanitary sewer extension; or

2. adopts or amends a water or sewer program of extensions;

(ii) taken separately; and

(iii) recorded as yeas, nays, or abstentions.

(2) The Commission shall record in the minutes:

(i) the name of a commissioner who votes or abstains;

(ii) the reason for an abstention;

(iii) a brief summary of the matters on which a vote is taken; and

(iv) any disclosure made under § 19–103 of this article.

(d) The minutes shall be open to public inspection at the principal office of the Commission during business hours.

(e) (1) The Commission shall:

(i) except as provided in paragraph (4) of this subsection, stream live video or live teleconference audio or other audio of the open meetings of the Commission; and

(ii) maintain on its website a complete and unedited archived recording of each open meeting that is livestreamed in accordance with this subsection.

(2) The inability of the Commission to comply with paragraph (1) of this subsection due to technical failure that entirely prevents or otherwise affects the quality of the live video or audio streaming of a meeting of the Commission does not affect the validity of any action taken by the Commission during the meeting if:

(i) the Commission otherwise complies with this section and the Open Meetings Act; and

(ii) the inability to comply is not due to willful action by the Commission.

(3) In addition to complying with the minutes requirements of the Open Meetings Act under § 3–306 of the General Provisions Article, if the Commission is unable to comply with the requirements of paragraph (1)(i) of this subsection, the Commission shall make good faith efforts to record an open session by video or audio and maintain on its website a complete and unedited archived recording of the meeting.

(4) A project site visit or an educational field tour does not constitute an open meeting under paragraph (1)(i) of this subsection if no organizational business is conducted.

§17–107.

(a) (1) Except as provided in subsection (d) of this section, the members of the Commission are entitled to the following annual salaries:

(i) chair $13,500;

(ii) vice chair $13,000; and

(iii) commissioners $13,000.

(2) The salary shall be paid every 2 weeks.

(b) While in office, commissioners may participate in any Commission program of group health, life, and disability insurance to the same extent and under the same terms as Commission staff.

(c) The Commission may employ a staff in accordance with the Commission's budget.

(d) A member of the Commission who also serves as the Director of the Montgomery County Department of Environmental Protection may not receive compensation for duties performed as a member of the Commission.

§17–201.

(a) (1) The Commission is a body corporate.

(2) The Commission may:

(i) use a common seal;

(ii) sue and be sued; and

(iii) do any other corporate act for the purpose of carrying out this division.

(b) (1) The Commission shall certify to the county councils of Montgomery County and Prince George's County a tax rate that will, when imposed

and collected in accordance with § 22–106 of this article, produce an amount sufficient to satisfy:

(i) a judgment against the Commission, including related costs and attorney's fees; or

(ii) a settlement agreement to resolve threatened or pending litigation, including related costs and attorney's fees.

(2) The Commission shall certify the tax rate under paragraph (1) of this subsection at the beginning of the taxable year for property taxes of the county councils of Montgomery County and Prince George's County immediately following the date of the judgment or settlement agreement described in paragraph (1) of this subsection.

(3) The tax rate described in this subsection is in addition to any tax required under this division for interest, serial bonds, or sinking fund requirements.

(c) All acts, orders, and regulations previously passed by the Commission while sitting in the District of Columbia are ratified and shall be given the same force and effect as if passed in the State.

§17–202.

(a) The Commission:

(1) before January 15 of each year, shall prepare capital and operating budgets for the next fiscal year that shall include projects and contracts authorized under §§ 17–204 and 17–205 of this subtitle;

(2) shall make available to the public, on request, copies of the budgets described in item (1) of this subsection;

(3) before February 15 of each year, shall hold a public hearing on the proposed capital and operating budgets after giving at least 21 days' notice of the hearing by publication in at least two newspapers of general circulation in Montgomery County and two newspapers of general circulation in Prince George's County;

(4) on or before March 1 of each year, shall submit to the county executives of Montgomery County and Prince George's County the proposed capital and operating budgets for the next fiscal year, including the record of any public hearing on the proposed capital or operating budget held by the Commission;

(5) shall identify the sources of revenue allocable to each proposed expenditure;

(6) shall propose a complete schedule of rates for water service charges, sewer usage charges, and ad valorem taxes that the Commission considers necessary to finance the capital and operating budgets;

(7) shall certify the amount necessary to be raised for the next fiscal year for debt service payments on all outstanding bonds and notes of the Commission; and

(8) between March 1 and April 1 of each year, may submit to the county executives of Montgomery County and Prince George's County amendments to the proposed capital or operating budget, including a declaration of need identifying the sources of revenue allocable to the proposed amendments.

(b) The county executives of Montgomery County and Prince George's County shall submit to the respective county council:

(1) on or before March 15 of each year, the proposed capital and operating budgets, including:

(i) recommendations on the proposed capital and operating budgets; and

(ii) the record of any public hearing on the capital or operating budget held by the Commission; and

(2) any amendments to the proposed capital and operating budgets with the county executive's recommendations within 10 days after receipt of the amendments.

(c) (1) The county councils of Montgomery County and Prince George's County:

(i) after giving public notice, may hold public hearings on the proposed capital and operating budgets not earlier than 21 calendar days after receipt of the capital and operating budgets from the respective county executive;

(ii) may add to, delete from, increase, or decrease an item of the capital or operating budget;

(iii) on or before May 15 of each year, shall submit any proposed changes to the capital or operating budgets to the other county council for review and concurrence; and

(iv) on or before June 1 of each year, shall approve the capital and operating budgets and submit them to the Commission.

(2) (i) If the county councils fail to concur in a change with respect to any item in the capital or operating budget on or before June 1 of each year, the failure to concur constitutes approval of the item as submitted by the Commission.

(ii) If the county councils fail to approve the capital and operating budgets on or before June 1 of each year, the proposed capital and operating budgets of the Commission are deemed approved.

(d) (1) The Commission may submit detailed proposed supplements to the approved capital and operating budgets to the county executives of Montgomery County and Prince George's County.

(2) Within 10 days after receipt of a proposed budget supplement, each county executive shall submit the proposed budget supplement, including recommendations, to the respective county council.

(3) Each county council:

(i) may hold public hearings on the proposed budget supplement; and

(ii) may add to, delete from, increase, or decrease the proposed budget supplement.

(4) The failure of the county councils to jointly approve or amend the proposed budget supplement within 90 days after the date that the Commission submits the proposed budget supplement to the county executives constitutes disapproval of the supplement as submitted by the Commission.

(e) (1) On submission of the approved capital and operating budgets the county councils of Montgomery County and Prince George's County may jointly recommend to the Commission rates for:

(i) water service charges;

(ii) sewer usage charges; and

(iii) ad valorem taxes.

(2) (i) On receipt of the capital and operating budgets and recommendations from the county councils, the Commission shall approve a rate schedule.

(ii) In approving a rate schedule the Commission shall consider the proposed rate changes jointly recommended by the county councils.

(3) Subject to § 25–101 of this article, the rates for water service charges and sewer usage charges shall be uniform throughout the sanitary district.

§17–202.1.

(a) (1) On or before November 1, 2025, the Commission shall submit the following information to the county councils of Montgomery County and Prince George's County and, in accordance with § 2–1257 of the State Government Article, the General Assembly:

(i) a long–range comprehensive financial plan that:

1. is developed by the Commission in conjunction with an independent financial advisor; and

2. meets the requirements of subsection (b) of this section; and

(ii) any updated Commission policies relating to financial management.

(2) On or before June 1, 2026, and every 5 years thereafter, the Commission shall submit to the county councils of Montgomery County and Prince George's County and, in accordance with § 2–1257 of the State Government Article, the General Assembly:

(i) an updated version of the long–range comprehensive financial plan; and

(ii) any updated Commission policies relating to financial management.

(b) A long–range comprehensive financial plan shall:

(1) include stress testing based on industry standards; and

(2) test the impact of a wide range of economic conditions that may affect the Commission and its financial solvency, including changes in employment rates, interest rates, and water usage.

(c) The Commission shall publish the long–range comprehensive financial plan on the Commission's website established under § 17–401 of this title.

§17–203.

Approval by the governing bodies of Montgomery County and Prince George's County is required before the construction of any new Commission administration building or any substantial addition to an existing Commission administration building.

§17–204. IN EFFECT

(a) (1) In this section, "border property" means property that:

(i) is located:

1. on a boundary line with the District of Columbia; and

2. within one–half mile of:

A. a regional transit district or neighborhood center in Prince George's County; and

B. an existing mass transit rail station that is operated by the Washington Metropolitan Area Transit Authority;

(ii) lacks frontage on a right–of–way in Prince George's County to connect water service, sewer service, or water and sewer service;

(iii) qualifies as an expedited transit–oriented development project under the zoning laws of the county; and

(iv) obtained site plan approval in the county on or after January 1, 2021, but before January 1, 2023.

(2) "Border property" includes any property, regardless of the date of site plan approval or site plan revision, that is:

(i) adjacent to a property that obtained site approval under paragraph (1)(iv) of this subsection; and

(ii) owned by the same entity that owns the property that obtained site approval under paragraph (1)(iv) of this subsection.

(b) (1) Subject to paragraph (2) of this subsection, the Commission may enter into a contract or agreement concerning the construction, maintenance, and operation of the water supply, sewer, or drainage systems under its control or under the control or ownership of the District of Columbia or any other agency, authority, or commission specified in this section.

(2) The Commission may enter into a contract or agreement under paragraph (1) of this subsection with:

(i) the District of Columbia;

(ii) for systems located in border properties, the District of Columbia Water and Sewer Authority;

(iii) any federal, state, county, or municipal authority in the State or any other state; or

(iv) any public water, sewer, or drainage commission in the State or any other state.

(c) The Commission may contract with, as a primary party or as a subcontractor, or invest in any person for the ownership, joint–venturing, management, operation, supervision, assistance, participation, or any other activity relating to the design, construction, operation, maintenance, or management of water or wastewater systems, including systems, services, expertise, intellectual property, and techniques developed in connection with, or usable or marketable with respect to, water or wastewater systems.

(d) (1) Notwithstanding any other provision of law and subject to the requirements of this subsection, the Commission may contract with the District of Columbia or the District of Columbia Water and Sewer Authority concerning the construction, maintenance, and operation of a water supply, sewer, or drainage system by authorizing the District of Columbia or the Authority to provide water service, sewer service, or water and sewer service to a border property.

(2) Any contract entered into under this subsection between the Commission and the District of Columbia or the District of Columbia Water and Sewer Authority shall:

(i) allocate the maintenance costs of the water supply, sewer, or drainage system;

(ii) allocate billing and collection responsibilities;

(iii) require multifamily housing units served under the contract to use master meters;

(iv) notwithstanding § 25–501(b)(2) of this division, provide for a service rate setting procedure for water service and sewer service that is based on the amount of water used;

(v) provide notice of the Commission's authority to:

1. charge the account of each customer served under the contract:

A. the minimum or ready to serve charges set by the Commission under § 25–502 of this division;

B. a fee that accounts for any additional operational costs that the Commission may incur in carrying out the duties under a contract entered into under this section if those duties are not required for other customer accounts within the sanitary district, as defined in § 16–101 of this article; and

C. any other fee required by State law, including the Bay Restoration Fee under § 9–1605.2 of the Environment Article;

2. inspect, read, and replace meters and other equipment; and

3. in accordance with this division and the regulations adopted by the Commission, terminate the water service of a customer served under the contract;

(vi) require the Commission and the District of Columbia or the District of Columbia Water and Sewer Authority to notify customers of any health and safety advisories;

(vii) based on a notification schedule agreed to by the Commission and the District of Columbia or the District of Columbia Water and Sewer Authority, require notification to customers served under the contract that:

1. the District of Columbia or the District of Columbia Water and Sewer Authority is the provider of water service, sewer service, or water and sewer service to the border property;

2. the Commission is the authorized billing agent for the District of Columbia or the District of Columbia Water and Sewer Authority;

3. the Commission is authorized to inspect, read, and replace meters and other equipment;

4. lateral water service and sewer lines are the responsibility of the property owner and not the Commission, the District of Columbia, or the District of Columbia Water and Sewer Authority;

5. the customer may be able to participate in a Customer Assistance Program or an Indirect Customer Assistance Program established under § 25–501.1 of this division; and

6. the customer may be charged higher service rates for water service and sewer service than other Commission customers because the District of Columbia or the District of Columbia Water and Sewer Authority, and not the Commission, is the direct provider of water service, sewer service, or water and sewer service; and

(viii) limit the ability of the Commission, the District of Columbia, or the District of Columbia Water and Sewer Authority to reduce services provided to a customer served under the contract.

(e) (1) Any contract or agreement entered into under this section has the full effect of a contract between the District of Columbia and the State or between the other agencies, authorities, or persons described in the section and this State.

(2) The authority granted in this section is in addition to, and is not limited by, the authority granted by any other Act of the General Assembly.

§17–204. // EFFECTIVE APRIL 24, 2028 PER CHAPTER 241 OF 2023 //

(a) (1) Subject to paragraph (2) of this subsection, the Commission may enter into a contract or agreement concerning the construction, maintenance, and operation of the water supply, sewer, or drainage systems under its control or under the control or ownership of the District of Columbia or any other agency, authority, or commission specified in this section.

(2) The Commission may enter into a contract or agreement under paragraph (1) of this subsection with:

(i) the District of Columbia;

(ii) any federal, state, county, or municipal authority in the State or any other state; or

(iii) any public water, sewer, or drainage commission in the State or any other state.

(b) The Commission may contract with, as a primary party or as a subcontractor, or invest in any person for the ownership, joint–venturing, management, operation, supervision, assistance, participation, or any other activity relating to the design, construction, operation, maintenance, or management of water or wastewater systems, including systems, services, expertise, intellectual property, and techniques developed in connection with, or usable or marketable with respect to, water or wastewater systems.

(c) (1) Any contract or agreement entered into under this section has the full effect of a contract between the District of Columbia and the State or between the other agencies, authorities, or persons described in the section and this State.

(2) The authority granted in this section is in addition to, and is not limited by, the authority granted by any other Act of the General Assembly.

§17–205.

(a) In this section, "product" or "technology" does not include water or sewer service provided as part of the primary mission of the Commission in the sanitary district or through systems connected directly to and operated as part of the water and sewer system in the sanitary district.

(b) Subject to subsection (d) of this section, the Commission may sell, lease, or license to the public, or enter into a contract concerning:

(1) any product or technology that is produced or developed by the Commission in the normal course of operations, including patents, trademarks, and copyrights;

(2) any service directly related to a product or technology described in item (1) of this subsection; or

(3) any system, service, expertise, intellectual property, or technique developed, owned, or controlled by or under the jurisdiction of the Commission.

(c) The Commission may adopt a price structure for an item described in subsection (b) of this section based on any factors that the Commission considers relevant, including:

(1) the costs of creating, developing, reproducing, and delivering the product or technology;

(2) overhead and labor costs; and

(3) the fair market value of the product or technology.

(d) (1) The Commission shall account for expenditures and revenues resulting from sales under this section by establishing a separate set of accounts.

(2) The accounts established under paragraph (1) of this subsection shall be itemized and included in the Commission's annual budget.

(e) The Commission shall use any net revenues earned from projects and contracts entered into under this section to stabilize or reduce rates and to reduce debt.

§17–206.

(a) The Commission may finance initial program development costs and other project costs for a project subject to this subtitle from Commission funding sources other than revenue bond proceeds only if those costs are reimbursed from project revenues.

(b) In any fiscal year, funding of initial program development costs and other project costs under subsection (a) of this section may not exceed an amount equal to 3% of the gross revenues of the Commission from water service charges and sewer usage charges for the immediately preceding fiscal year.

(c) Any project, contract, or transaction entered into under this subtitle that uses revenue bonds issued under Title 22, Subtitle 2 of this article shall be entered into by the Commission through the use of:

(1) a limited liability company;

(2) a limited liability partnership;

(3) a limited partnership; or

(4) another comparable limited liability entity or arrangement.

§17–301.

(a) In this subtitle the following words have the meanings indicated.

(b) "Proper invoice" means an invoice that:

(1) contains the contractor's federal employer's identification number or Social Security number;

(2) contains the contract or purchase order number or other description of the contract; and

(3) contains or is accompanied by the substantiating information and documentation required by regulation or contract.

(c) "Receipt date" means the date that a proper invoice is received by the Commission.

§17–302.

It is the policy of the Commission that the Commission shall make a payment in accordance with any authorized, written procurement contract to the contractor within 30 calendar days after the receipt date of a proper invoice.

§17–303.

Any amount due and payable under law and an authorized, written procurement contract that remains unpaid for more than 45 calendar days after the receipt date shall accrue interest, at the rate specified in § 11–107(a) of the Courts Article, for the period that begins 31 calendar days after the receipt date.

§17–304.

The Commission is not liable for the payment of interest under this subtitle:

(1) if a proper invoice for accrued interest is not submitted within 30 calendar days after the date of the Commission's check for payment of the amount on which the interest accrued;

(2) for more than 1 year following the 31st calendar day after the receipt date;

(3) on amounts representing unpaid interest; or

(4) if there is a dispute, as determined by the Commission, as to any material factor in the contract or purchase order.

§17–401.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) "Payee" means a person that receives from the Commission an aggregate payment of $25,000 in a single fiscal year.

(ii) "Payee" does not include:

1. a Commission employee with respect to the employee's compensation; or

2. a Commission retiree with respect to the retiree's retirement allowance.

(3) "Searchable website" means a website created in accordance with this section that displays and searches payment data of the Commission.

(b) The Commission shall:

(1) publish annually in at least one newspaper in Montgomery County and one newspaper in Prince George's County a copy of the current financial statement of the Commission;

(2) employ a certified public accountant licensed to practice in the State to audit the books and accounts of the Commission;

(3) keep available for public inspection during business hours at its principal office the annual audit and current financial statement; and

(4) file annually with the county executives and county councils of Montgomery County and Prince George's County, and the Montgomery County and Prince George's County Senate and House delegations to the Maryland General Assembly a certified copy of the annual audit and current financial statement.

(c) On or before July 1, 2020, the Commission shall develop and operate a single searchable website accessible to the public at no cost through the Internet.

(d) The searchable website shall contain Commission payment data including:

(1) the name of each payee receiving a payment;

(2) the location of the payee by postal zip code; and

(3) the amount of the payment.

(e) The searchable website shall allow the user to:

(1) search data for fiscal year 2019 and each fiscal year thereafter; and

(2) search by the following data fields:

(i) a payee receiving a payment; and

(ii) the zip code of a payee receiving a payment.

(f) (1) Subject to paragraph (2) of this subsection, the searchable website shall contain:

(i) any documents relating to a bond rating received from a major credit rating agency;

(ii) data related to the Refund Hearing Board of the Commission, including:

1. the number of cases filed;

2. the number of cases closed;

3. the number of cases granted;

4. the number of cases denied;

5. the refund amount requested in each case; and

6. the refund amount granted in each case;

(iii) data related to the Dispute Resolving Board of the Commission, including:

1. the number of cases filed;

2. the number of cases closed;

3. the number of cases granted;

4. the number of cases denied;

5. the unpaid amount disputed in each case; and

6. the amount of relief granted in each case; and

(iv) a copy of any stress testing completed for a long–range comprehensive financial plan developed in accordance with § 17–202.1 of this title.

(2) The data provided under paragraph (1) of this subsection may not contain any personally identifiable information.

(g) This section may not be construed to require the disclosure of information that is required to be kept confidential under federal, State, or local law.

(h) (1) Subject to paragraph (2) of this subsection, the county council or county executive of Montgomery County or Prince George's County may, in person or by a duly authorized agent, audit and examine the books and records of the Commission.

(2) The Commission may not be required to pay the cost of the audit or examination under paragraph (1) of this subsection.

§17–402.

The Commission may not discriminate against a person on the basis of sex, race, creed, color, age, mental or physical disability, sexual orientation, religion, marital status, gender identity, genetic information, family responsibilities, or national origin.

§17–402.1.

(a) (1) The Commission may not enter into a contract unless the contract contains a provision obliging the contractor:

(i) not to discriminate in any manner against an employee or an applicant for employment on the basis of sex, race, creed, color, age, mental or physical disability, sexual orientation, religion, marital status, gender identity, genetic information, or national origin; and

(ii) to include a similar nondiscrimination provision in all subcontracts.

(2) (i) If the nondiscrimination provision is omitted from a contract or subcontract, the Commission shall provide the contractor a reasonable opportunity to cure the defect, subject to this section.

(ii) If the contractor fails to cure the defect:

1. the Commission may declare the contract to be void; and

2. the contractor is entitled to the reasonable value of work performed and materials provided by the contractor.

(iii) If the contractor cures the defect, the contract remains in force according to its revised terms.

(b) (1) In accordance with this section, the Commission may compel a contractor to continue to perform under a contract if:

(i) the contractor willfully fails to comply with the requirements of a nondiscrimination provision; and

(ii) the contract is partially executory.

(2) If the Commission compels performance under this subsection, the Commission:

(i) is liable for no more than the reasonable value of work performed and materials provided by the contractor after the date on which the breach of contract was or should have been discovered; and

(ii) shall deduct any money that has been paid under the contract from the money that comes due under item (i) of this paragraph.

(c) (1) If a subcontractor willfully fails to comply with the requirements of a nondiscrimination provision, the contractor may declare the subcontract to be void.

(2) If a contractor declares a subcontract to be void under this subsection, the contractor is liable for no more than the reasonable value of work performed or materials provided by the subcontractor.

§17–403.

(a) (1) Except as otherwise provided by this division, the Commission may adopt regulations to carry out the provisions of this division and any other laws the administration and enforcement of which are vested in the Commission.

(2) The Commission may:

(i) limit or regulate the use and supply of water service and sanitary sewer service on a temporary basis in any area or to any premises served by the Commission's facilities, as the needs of the occasion and the protection of the Commission's systems require;

(ii) adopt regulations that the Commission considers necessary for the public safety, health, comfort, or convenience in the construction, operation, maintenance, expansion, relocation, replacement, renovation, and repair of the Commission's water system and sanitary sewer system; and

(iii) establish the forms of permits and specify the nature, type, and amount of information, detail, and engineering data that a person must submit to the Commission for any permit authorized or required by this division.

(b) Except for the immediate preservation of the public health and safety or for emergency provisions required to protect the Commission's systems, the Commission shall publish a notice of any new regulation that is authorized by this section at least 30 days before its effective date in at least one newspaper of general circulation in each county of the sanitary district.

(c) A regulation adopted by the Commission under this section has the force and authority of law.

§17–404.

(a) The Commission may:

(1) adopt regulations for the installation of fuel gas piping, appliances, appurtenances, and connections from the point of service supplying any premises in the sanitary district; and

(2) require a permit and charge a fee for the installation of fuel gas piping, appliances, appurtenances, and connections.

(b) The Commission shall publish a notice of any new regulation that is authorized by this section at least 30 days before its effective date in at least two newspapers of general circulation in each county of the sanitary district.

(c) A person may not violate a regulation adopted under this section.

§17–405.

(a) Under the authority granted to the Commission under § 17–403 of this subtitle, the Commission may adopt regulations governing all publicly owned watershed property acquired by or under the jurisdiction of the Commission.

(b) (1) The Commission shall post the watershed regulations at each public recreation site in the watershed areas.

(2) The Commission shall publish the watershed regulations at least 30 days before their adoption in at least one newspaper of general circulation in each county of the sanitary district.

(3) (i) The posting and publication of the watershed regulations is sufficient notice.

(ii) The sworn certificate of a commissioner as to the posting and publication of the watershed regulations is prima facie evidence of posting and publication.

§17–406.

(a) The Commission may adopt regulations governing:

(1) erosion and sediment control for utility construction under authority of § 17–403 of this subtitle and § 4–105 of the Environment Article, after review and approval of the proposed regulations by the soil conservation districts of Montgomery County and Prince George's County and the Department of Natural Resources;

(2) sewer cleaning under authority of § 24–201 of this article;

(3) plumbing under authority of § 17–403 of this subtitle and §§ 24–106, 26–102, and 26–204 of this article;

(4) gas fitting under authority of § 17–404 of this subtitle;

(5) required permits for public utility construction under authority of §§ 27–101 and 27–107 of this article; and

(6) the Commission Pretreatment Program under authority of § 17–403 of this subtitle and § 9–332 of the Environment Article.

(b) (1) The Commission shall publish the regulations as provided under § 17–403(b) of this subtitle.

(2) The sworn certificate of a commissioner as to the publication of the regulations is prima facie evidence of publication.

§17–407.

(a) (1) Except as provided in subsection (b) of this section, in accordance with its regulations, the Commission may pay for actual property damage caused by:

(i) a sanitary sewer backup; or

(ii) a water main break on or after October 1, 1999.

(2) Payment made by the Commission under this section is not an admission of liability.

(b) The Commission may not pay for actual property damage caused by a sanitary sewer backup or water main break if the sanitary sewer backup, water main break, or resulting damage from the backup or break was caused by an intentional act or negligence of the owner or tenant of the property.

§17–408.

(a) Unless the Commission takes precautions to make a composting facility free of offensive off–site odors, the Commission may not construct the facility in an area that has more than 100 homes that are located within 5 miles of the facility.

(b) The Commission shall adopt regulations that provide standards for the construction and operation of a composting facility that is free of offensive off–site odors.

(c) If the Commission does not control and eliminate any offensive off–site odor that is caused by a composting facility that is constructed after July 1, 1986, the

Commission shall close the facility within 4 months after the date the offensive off–site odor is emitted from the facility.

(d) If a composting facility is closed for failure to meet any standards adopted by the Commission under this section, Montgomery County shall select an alternative method or location for the disposition of sludge located at the closed facility.

§17–501.

The sanitary district is composed of those parts of Montgomery County and Prince George's County that are described in Chapter 766 of the Acts of the General Assembly of 1982.

§17–601.

(a) In this subtitle the following words have the meanings indicated.

(b) (1) "Abuse" means an employee's intentional misconduct or misuse of authority or position:

(i) involving Commission property or funds that is improper or deficient when compared to conduct a prudent person would consider reasonable under the same facts and circumstances; or

(ii) for the purpose of furthering improperly the private interests of the employee, a family member, or a close personal or business associate.

(2) "Abuse" includes:

(i) theft or misappropriation of Commission property or funds; and

(ii) destruction or alteration of official records.

(c) (1) "Fraud" means an intentional act or attempt to obtain something of value from the Commission or another person through willful misrepresentation.

(2) "Fraud" includes a willful false representation of a material fact, whether by words or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed, that causes the Commission to act, or fail to act, to the detriment of the Commission's interest.

(d) "Office" means the Office of the Inspector General.

(e) "Vendor" means a party obligated by contract or subcontract to provide goods, services, or property to the Commission for consideration, including contracts and subcontracts for construction and professional services related to construction.

(f) (1) "Waste" means an inappropriate act or omission by an employee with control over, or access to, Commission property or funds that unreasonably deprives the Commission of value.

(2) "Waste" includes mismanagement or other unintentional conduct that is deficient or improper when compared to conduct a prudent person would consider necessary to preserve the value of Commission property or funds under the same facts and circumstances.

§17–602.

There is an Office of the Inspector General in the Commission.

§17–603.

(a) (1) The Commission shall appoint the inspector general.

(2) (i) The Commission shall select the inspector general:

1. solely on the basis of professional ability and personal integrity; and

2. without regard to political affiliation.

(ii) The inspector general shall be qualified professionally by experience or education in auditing, government operations, or financial management.

(3) The Commission shall select the inspector general from a list of recommended candidates prepared by the appointment committee under subsection (b) of this section by an affirmative vote of not less than four commissioners.

(b) (1) The Commission shall establish an appointment committee whenever the position of inspector general is vacant.

(2) The appointment committee shall review potential candidates for appointment as inspector general and shall recommend candidates to the Commission.

(3) (i) The appointment committee consists of:

1. one commissioner from Montgomery County;

2. one commissioner from Prince George's County;

3. one member of the public selected by the Montgomery County Council; and

4. one member of the public selected by the Prince George's County Council.

(ii) A member of the appointment committee who is a member of the public shall possess:

1. advanced education and experience in the management of governmental entities that are comparable to the Commission in scope and complexity;

2. demonstrated knowledge and experience in the application of:

A. generally accepted government auditing standards; and

B. internal control systems; and

3. an understanding of the appropriate functions of an appointment committee.

(iii) A member of the appointment committee who is a member of the public may possess demonstrated knowledge and experience in the application of:

1. sustainable financial management practices for public entities; and

2. public accountability.

(iv) A member of the appointment committee who is a member of the public may not have any other business or close personal relationships with the Commission or its officers, managers, or employees.

(4) (i) The appointment committee shall initially prepare a list of at least three and not more than six candidates to recommend for appointment as inspector general and submit the list to the Commission.

(ii) 1. If the Commission is unable to select an inspector general from the list prepared by the appointment committee, the appointment committee shall prepare one or more additional lists of recommended candidates as needed until the Commission makes a final appointment of an inspector general.

2. The additional lists prepared under this subparagraph may contain any number of candidates.

(5) (i) On completion of the final appointment of an inspector general, the appointment committee is terminated.

(ii) The Commission shall establish a new appointment committee whenever there is a vacancy in the position of inspector general.

(c) (1) The term of the inspector general is 5 years beginning on the date of appointment.

(2) An individual may not serve as inspector general for more than three terms.

(3) The inspector general may not participate in the merit system adopted by the Commission under Title 18, Subtitle 1 of this article, but:

(i) the inspector general may participate in any employee benefits program the Commission offers on the same terms and conditions as it is offered generally to an employee participating in the merit system; and

(ii) the Commission may offer to an individual appointed as inspector general any supplemental employee benefit programs the Commission determines are necessary to recruit and retain an employee who does not participate in the merit system.

(4) (i) The Commission may remove the inspector general by resolution adopted by the affirmative vote of not less than two of its three members from each county for neglect of duty, malfeasance, conviction of a felony, or other good cause.

(ii) Before the Commission may adopt a resolution of removal, the Commission or a designee of the Commission must hold a public hearing if the

inspector general requests a hearing within 10 days after the inspector general receives notice of proposed removal from the Commission.

(5) The inspector general shall discharge the duties of office on a full–time basis and with no secondary employment of any nature during the inspector general's term.

(d) (1) Subject to budget authorization, applicable law, and the personnel regulations of the Commission, the inspector general may select as subordinate staff of the Office one or more:

(i) temporary term employees who do not participate in the merit system adopted by the Commission under Title 18, Subtitle 1 of this article; and

(ii) other employees who participate in the merit system.

(2) Notwithstanding any provision of the personnel regulations to the contrary, an auditor, an accountant, an investigator, or a similar professional employee appointed as subordinate staff of the Office shall be subject to dismissal by the inspector general only for neglect of duty, malfeasance, conviction of a felony, or other good cause.

(e) Subject to budget authorization and the applicable procurement regulations, the inspector general may retain consultants by contract.

§17–604.

(a) The inspector general may:

(1) investigate mismanagement, misconduct, fraud, waste, and abuse at the Commission; and

(2) conduct an annual audit of the Commission as needed.

(b) If the inspector general conducts an audit under subsection (a)(2) of this section, the inspector general shall submit to the Commission and the county executives of Montgomery County and Prince George's County a copy of the audit and a summary of the reports and investigations made by the inspector general in accordance with this section.

(c) The Commission may include any audit by the inspector general in the audit of the Commission published under § 17–401 of this title.

§17–605.

(a) The Office shall:

(1) assist the Commission by providing independent evaluation and recommendations regarding opportunities to:

(i) preserve the Commission's reputation; and

(ii) improve the effectiveness, productivity, or efficiency of Commission programs, policies, practices, and operations;

(2) ensure public accountability by preventing, investigating, and reporting instances of fraud, waste, and abuse of Commission property or funds;

(3) examine, evaluate, and report on the adequacy and effectiveness of the systems of internal controls and their related accounting, financial, technology, and operational policies;

(4) report noncompliance with and propose ways to improve employee compliance with applicable law, policy, and ethical standards of conduct;

(5) conduct audits as required under § 25–405 of this article; and

(6) conduct other audits related to the operation of the Commission.

(b) In developing recommendations, the Office may:

(1) conduct administrative investigations, budgetary analyses, and financial, management, or performance audits and similar reviews;

(2) provide management advisories; and

(3) utilize the assistance from any other government agency or private party to complete a project initiated by the Office.

(c) When applicable, the inspector general shall comply with generally accepted government auditing standards.

(d) (1) Except as provided in paragraph (2) of this subsection, the inspector general shall submit written reports to the Commission for publication on the Commission's website.

(2) The inspector general:

(i) may not disclose any record, report, or related information that is protected from disclosure under the Public Information Act;

(ii) may provide an oral report if appropriate under generally accepted government auditing standards; and

(iii) shall establish and follow procedures for safeguarding the identity of confidential sources and protecting privileged and confidential information.

(3) The Commission shall publish with any report submitted by the inspector general any official written comments or responses offered by the Commission's management.

(4) The inspector general shall also submit to the Commission for publication on the Commission's website periodic reports that summarize the activities, findings, recommendations, and accomplishments of the Office.

(e) If reasonable grounds exist to believe that a serious violation of federal, State, or local law or Commission regulations has occurred, the inspector general shall report the allegation to:

(1) an appropriate law enforcement agency;

(2) the State Ethics Commission;

(3) the Commission Board of Ethics; or

(4) any other agency with jurisdiction to enforce the law.

(f) The Commission shall adopt regulations to ensure that the Office operates independently from the management of the Commission.

§17–606.

(a) (1) The inspector general shall consult with the Commission to develop a written work plan and establish periodic goals and priorities for the Office based on an assessment of relative risks.

(2) In developing the work plan, the inspector general shall take into consideration requests from commissioners, Commission officers, managers, and employees, elected officials, and members of the public.

(3) The inspector general shall make the written work plan available to the public, subject to the Public Information Act.

(b) (1) In performing the duties authorized under this subtitle, the inspector general shall coordinate with law enforcement agencies, agency personnel administrators, the State Ethics Commission, the Commission Board of Ethics, and other internal officials or external entities as appropriate to avoid unnecessary disruption or duplication of effort in conducting any audit, analysis, or administrative investigation.

(2) The Commission Board of Ethics shall have primary authority for investigations of abuse related to actions specified in § 17–601(b)(1)(ii) of this subtitle.

§17–607.

(a) (1) The Commission shall include in the Commission's annual operating budget proposal the amounts recommended for the Office.

(2) The budget authorization for the Office shall be approved independently and without the involvement of Commission staff.

(b) Subject to budget authorization and adequate funds:

(1) the Commission's general counsel shall provide legal services to the inspector general and may employ special counsel if appropriate or required by law; and

(2) the inspector general may employ and be represented by a special legal counsel without consent of the general counsel if the Commission approves of a request after considering any recommendation or comment offered by the general counsel relating to the request.

§17–608.

(a) (1) On request from the inspector general, a Commission employee or official shall promptly provide to the inspector general any available document or other information concerning Commission operations, budget, programs, or vendor contracts.

(2) (i) The inspector general shall notify the Commission chair, vice chair, and general manager if any Commission employee or official fails to provide any information or document requested under this subsection with reasonable promptness.

(ii) The Commission chair, vice chair, or general manager shall take administrative action to produce compliance with a pending request for information by the inspector general as warranted and appropriate.

(b) (1) A vendor of the Commission shall provide to the inspector general any available document or other information concerning any Commission vendor contract, including documents related to the procurement of the contract.

(2) (i) The inspector general shall promptly notify Commission officers if any vendor fails to provide any information or document requested under this subsection with reasonable promptness.

(ii) The Commission officers shall take appropriate administrative or civil action to produce vendor compliance with a pending request for information by the inspector general.

(c) (1) Each Commission employee should report any fraud, waste, or abuse to the Office.

(2) A Commission employee, vendor, or employee of any vendor may not be retaliated against or penalized, or threatened with retaliation or penalty, for providing information to, cooperating with, or in any way assisting the inspector general and staff of the Office in connection with any activity authorized under this subtitle.

(3) The inspector general may not disclose the identity of a person that reports an allegation of fraud, waste, or abuse unless:

(i) the reporting person consents to disclosure of the person's identity;

(ii) disclosure is reasonably necessary to complete an audit or investigation; or

(iii) another person is legally entitled to disclosure of the identity of the reporting person.

(d) The inspector general or a staff member authorized by the inspector general may administer an oath or affirmation or take an affidavit from any person if necessary to perform the duties under this subtitle.

(e) The Commission may adopt regulations to carry out this section.

§17–609.

(a) The inspector general, or a staff member authorized by the inspector general, may administer oaths and take depositions and other testimony for the purpose of investigating fraud, waste, or abuse within the Commission.

(b) The inspector general may subpoena any person or evidence for the purpose of investigating fraud, waste, or abuse within the Commission.

(c) If a person fails to comply with a lawful order or subpoena issued under this section, on petition of the inspector general, a court of competent jurisdiction may compel:

(1) compliance with the order or subpoena; or

(2) testimony or the production of evidence.

§17–610.

(a) (1) On or before June 1, 2026, and every 3 years thereafter, the Office shall undergo an external, independent peer review to assess whether the Office's quality control system is effectively designed and operating in compliance with generally accepted government auditing standards.

(2) To the extent practicable, the initial peer review conducted in accordance with subsection (a) of this section shall include:

(i) a review of whether the Office is sufficiently independent of the Commission and Commission staff; and

(ii) an analysis of whether additional reviews and reports, including those evaluating the effectiveness of the Commission's internal controls over finances, operations, and compliance activities, would help achieve the duties of the Office.

(b) (1) The Office shall submit the results of the peer review conducted under subsection (a) of this section to:

(i) the county councils of Montgomery County and Prince George's County;

(ii) in accordance with § 2–1257 of the State Government Article, the members of the Montgomery County and Prince George's County delegations to the General Assembly; and

(iii) the Commission.

(2) The Commission shall publish each peer review conducted under this section on the Commission's website.

§18–101.

In this subtitle, "Secretary" means the Secretary of Budget and Management.

§18–102.

This subtitle does not prohibit the Commission from employing consulting or outside engineering services that the Commission considers necessary.

§18–103.

Except as otherwise provided by law, the provisions of the State Personnel and Pensions Article that govern skilled service and professional service employees do not apply to the Commission.

§18–104.

The Commission:

(1) may employ personnel and make expenditures necessary to carry out the purposes of this subtitle; and

(2) shall reimburse the State for any reasonable cost incurred by the Department of Budget and Management in carrying out the functions under this subtitle.

§18–105.

The Commission may adopt regulations to carry out this subtitle.

§18–106.

(a) The Commission shall organize its employees in a manner that promotes the efficient disposition of all matters within the Commission's jurisdiction.

(b) To carry out this division, the Commission may:

(1) organize its employees into departments or other divisional organizations;

(2) establish the functions, duties, and responsibilities of the general manager, secretary, treasurer, chief engineer, general counsel, inspector general, and other employees the Commission considers necessary; and

(3) appoint, discharge, and set the compensation of its employees in accordance with this subtitle.

§18–107.

(a) The Commission may establish a merit system that includes all of its employees except:

(1) the general manager, secretary, treasurer, and chief engineer;

(2) the head of a department;

(3) (i) the inspector general; and

(ii) any temporary employee of the Office of the Inspector General appointed under § 17–603 of this article; and

(4) a part time, temporary, or contract employee.

(b) The Commission may:

(1) appoint or promote a merit system employee to the position of general manager, department head, or inspector general or designate a merit system employee as the general manager, department head, or inspector general on an acting basis;

(2) retain the employee in the merit system in the position or grade from which the employee was appointed or promoted; and

(3) continue to exclude the positions of general manager, department head, and inspector general from the merit system.

§18–108.

(a) The Commission shall establish a list of each position to be included under the merit system and its corresponding salary.

(b) The Commission may:

(1) establish additional position classifications; and

(2) combine, alter, or abolish existing position classifications and their corresponding salaries.

§18–111.

(a) (1) In this section the following words have the meanings indicated.

(2) "Eligible veteran" means a veteran of any branch of the uniformed services who has received an honorable discharge or a certificate of satisfactory completion of service, including:

(i) a reserve component;

(ii) the Commissioned Corps of the Public Health Service; and

(iii) the Commissioned Corps of the National Oceanic and Atmospheric Administration.

(3) "Reserve component" has the meaning stated in § 9–901 of the State Government Article.

(4) "Veteran" has the meaning stated in § 9–901 of the State Government Article.

(b) The Commission may grant a preference in hiring and promotion to:

(1) an eligible veteran;

(2) the spouse of an eligible veteran who has a service–connected disability; or

(3) the surviving spouse of a deceased eligible veteran.

(c) Granting a preference under subsection (b) of this section does not violate any State or local equal employment opportunity law.

§18–114.

Unless otherwise provided by law, the Commission may not approve or pay any compensation for services unless the individual to whom the compensation is paid is an employee.

§18–115.

(a) Each merit system employee is entitled to the number of days of annual leave with pay that the Commission specifies by regulation.

(b) The number of days of annual leave with pay specified by a regulation adopted under this section shall be:

(1) at least 10 days but not more than 30 days in a calendar year; and

(2) generally consistent with the annual leave schedules provided by other governmental agencies in the area of the sanitary district.

§18–116.

(a) In addition to annual leave, each merit system employee is entitled to up to 15 days of sick leave with pay in a calendar year.

(b) (1) An employee may use sick leave at any time.

(2) An employee who uses 3 or more consecutive days of sick leave must present a certificate from a licensed physician before the employee may receive payment for the period of absence.

(c) An employee may accumulate unused sick leave up to 60 days or more as the Commission specifies by regulation.

(d) The Commission, by regulation, may provide for granting a leave of absence for a longer period, with full or partial pay, to an employee who is disabled through an injury or illness resulting or arising from the employee's employment with the Commission.

§18–117.

(a) The Commission, by regulation, may provide for the designation by a merit system employee of the individual to whom the employee's final salary payment, and any payment due for unused annual leave, should be made on the death of the employee.

(b) (1) The designation of the beneficiary shall be:

(i) in writing; and

(ii) on file with the Commission before the death of the employee.

(2) (i) The writing need not be in testamentary form.

(ii) The designation and payment are not testamentary dispositions.

(c) The Commission may make the payments described in subsection (a) of this section directly to the beneficiary designated by the employee.

§18–118.

(a) The Commission may establish a pension or retirement plan for its employees.

(b) (1) The Commission may:

(i) contract with an insurance company for a group, annuity, retirement, or pension plan; and

(ii) contribute to the plan as the Commission considers equitable or as required by contract.

(2) The Commission's contribution under paragraph (1)(ii) of this subsection shall be charged as expenses of the several functions of the Commission in the same proportion that the receipts of the respective functions bear to the total receipts of the Commission.

§18–119.

(a) The Commission may transfer an employee from one department to another.

(b) A transfer may not result in a diminution of an employee's salary unless:

(1) the employee agrees to the reduced salary; or

(2) the Secretary concurs in the reduction.

§18–120.

An employee may be separated from the merit system:

(1) temporarily through suspension, layoff, or leave of absence; or

(2) permanently through removal or resignation.

§18–121.

(a) The Commission may suspend an employee for disciplinary purposes for up to 30 days.

(b) Each suspension shall be without pay.

(c) An employee may not be suspended for disciplinary purposes for more than 30 days in a calendar year.

§18–122.

(a) An employee who is laid off because a position has been abolished, discontinued, or vacated because of a change in departmental organization or because of a stoppage or lack of work shall be placed on the eligible list for the classification of position from which the employee is laid off.

(b) If a vacancy occurs in the employee's merit system position, the employee shall be reemployed in preference to any eligible individual who is not an employee of the Commission.

§18–123.

(a) An employee may not be permanently removed except for cause and after an opportunity to be heard.

(b) An employee who is permanently removed may appeal to the Office of Administrative Hearings in accordance with § 4–401 of the State Personnel and Pensions Article.

(c) An employee may not be permanently removed from the merit system because of religious or political opinions or affiliations.

§18–124.

(a) The Commission, by regulation, shall establish what constitutes a resignation.

(b) A regulation adopted under subsection (a) of this section is subject to the approval of the Secretary.

§18–125.

(a) On or before October 1, 2010, the Commission shall adopt regulations that establish comprehensive Commission employee whistleblower protections.

(b) The regulations adopted under subsection (a) of this section shall:

(1) be similar to the provisions of Title 5, Subtitle 3 of the State Personnel and Pensions Article;

(2) prohibit a manager or supervisor from taking or refusing to take a personnel action as a reprisal against an employee who:

(i) discloses information that the employee reasonably believes evidences:

1. an abuse of authority, gross mismanagement, or gross waste of money;

2. a substantial and specific danger to public health or safety; or

3. a violation of law; or

(ii) following a disclosure under item (i) of this item, seeks a remedy provided by regulation or any other law;

(3) require the Commission to provide the employees of the Commission with written notice of the protections and remedies provided by the regulations;

(4) set up a procedure by which an employee who seeks relief for a violation of the regulations may file a complaint or a grievance;

(5) establish a system for investigating complaints and grievances; and

(6) set forth remedial actions that may be taken by the Commission if a violation of the regulations is found to have occurred.

§18–126.

(a) A person may not impersonate another in an examination held under this subtitle.

(b) A person may not willfully or corruptly falsify a score or report on an examination held under this subtitle.

(c) (1) A person, acting alone or in cooperation with another, may not:

(i) willfully or corruptly deceive an individual about the right to take an examination held under this subtitle;

(ii) willfully or corruptly interfere with the right of an individual to take an examination held under this subtitle;

(iii) falsify, or assist another to falsify, a score, grade, estimate, or report on the examination or standing of an individual examined under this subtitle; or

(iv) give to an individual any special information in order to improve or harm the individual's rating for appointment or employment.

(2) Notwithstanding paragraph (1)(iv) of this subsection, a person may answer any inquiry from the Secretary.

(d) A candidate for employment may not deceive the Commission or the Secretary in order to improve the candidate's chances for appointment.

(e) (1) A candidate for appointment to a merit system position may not sign a resignation from that position in advance of the appointment.

(2) A resignation signed in violation of paragraph (1) of this subsection is void and of no effect.

§18–201.

(a) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Confidential employee" means an employee who assists or acts in a confidential capacity with respect to an individual who formulates, determines, or implements management policies in the field of labor–management relations.

(iii) "Probationary employee" means a Commission merit system employee during the employee's initial probationary period after hiring.

(2) The rights granted to Commission merit system employees under this subtitle do not apply to:

(i) attorneys in the Office of the General Counsel;

(ii) confidential employees;

(iii) probationary employees;

(iv) employees in the Office of the General Manager;

(v) employees in the Office of the Inspector General;

(vi) employees in the Office of the Secretary; or

(vii) supervisors, as defined in § 2(11) of the National Labor Relations Act, 29 U.S.C. § 152(11).

(b) (1) Commission employees are divided into five bargaining units consisting of:

(i) an office unit that includes:

1. office classification titles in which employees are responsible for internal and external communications, recording and retrieving information, and paperwork required in an office;

2. paraprofessional classification titles in which employees perform, in a supportive role, some of the duties of a professional or a technician but that usually require less formal training or experience than those duties performed by those with professional or technical status; and

3. all other nonprofessional job titles currently unrepresented by any other union;

(ii) a professional unit that includes professional classification titles in which employees have special or theoretical knowledge that is usually acquired through college training or other training that provides comparable knowledge or work experience;

(iii) a service, labor, and trade unit that includes:

1. classification titles in which employees:

A. perform service and maintenance;

B. may operate specialized machinery or heavy equipment; and

C. have duties that contribute to the comfort and convenience of the public or to the upkeep and care of Commission buildings, facilities, or grounds;

2. classification titles in which employees are required to have a special manual skill and thorough knowledge of processes that are required through on–the–job training, experience, apprenticeship, or other formal training programs; and

3. classification titles included in the service, labor, and trade bargaining unit as constituted on January 1, 2003;

(iv) a law enforcement unit that includes Commission police officers; and

(v) a technical unit that includes technical classification titles in which employees have a combination of basic scientific or technical knowledge and manual skill that is usually acquired through specialized postsecondary school education or through equivalent on–the–job training.

(2) If a single employee organization is certified to represent more than one bargaining unit, the Commission shall negotiate a single contract with that organization covering all employees the organization represents.

§18–202.

(a) The Commission shall recognize the right of an employee organization, certified under this subtitle as the exclusive representative of a bargaining unit, to represent the employees of the bargaining unit in collective bargaining and in the settlement of grievances.

(b) An employee organization certified as the exclusive representative of a bargaining unit shall:

(1) serve as the sole bargaining agent for the unit in collective bargaining; and

(2) represent all employees in the bargaining unit fairly, without discrimination, and without regard to whether an employee is a member of the employee organization.

(c) An employee organization meets the requirements of subsection (b)(2) of this section if the employee organization's actions with respect to employees who are members of the employee organization and employees who are not members of the employee organization are not arbitrary, discriminatory, or in bad faith.

§18–203.

(a) After a public hearing, the Commission shall appoint an experienced neutral third party to serve as labor relations administrator for 1 year.

(b) (1) After the term for the labor relations administrator appointed under subsection (a) of this section expires, the exclusive representative or representatives and the Commission shall jointly appoint a labor relations administrator from a list of five nominees on whom they have agreed.

(2) If the exclusive representative or representatives and the Commission are unable to jointly agree on a list of five nominees or are unable to jointly appoint a labor relations administrator from the list, the Commission shall request from the American Arbitration Association a list of 15 candidates located in the State or the Washington, D.C. metropolitan area.

(3) The Commission and the exclusive representative or representatives shall select the labor relations administrator by each of the parties striking one name from the list until the last name remains.

(4) A random drawing shall determine the order in which the parties shall strike names.

(5) The labor relations administrator shall be appointed for a term of 3 years.

(c) After the term for the labor relations administrator appointed under subsection (a) of this section expires and after a public hearing on the appointment, if no exclusive representative has been certified under this subtitle, the Commission shall appoint the next labor relations administrator for a term not exceeding 1 year.

(d) A labor relations administrator is eligible for reappointment.

§18–204.

(a) An employee organization that is certified or that seeks certification as an exclusive representative under this subtitle shall submit to the labor relations administrator:

(1) a copy of the employee organization's constitution and bylaws; and

(2) any subsequent change in the employee organization's constitution or bylaws.

(b) The constitution or bylaws shall include:

(1) a pledge that the employee organization accept members without regard to age, marital status, national origin, race, religion, disability, sexual orientation, sex, or gender identity;

(2) the right of members to participate in the affairs of the employee organization;

(3) procedures for periodic elections for officers by secret ballot;

(4) fair procedures governing disciplinary actions;

(5) procedures for the accurate accounting of all income and expenditures;

(6) a requirement that an independent annual financial report be produced; and

(7) the right of members to inspect the organization's accounts.

§18–205.

(a) The labor relations administrator shall conduct an election for an exclusive representative after:

(1) an employee organization demonstrates, by petition, that at least 30% of the eligible employees in a bargaining unit support representation by an exclusive representative for collective bargaining; or

(2) an employee or an employee organization demonstrates, by petition, that at least 30% of the eligible employees in a bargaining unit no longer support the current exclusive representative.

(b) (1) At least 45 days before an election, the labor relations administrator shall provide, and the Commission shall post in conspicuous places in the Commission's facilities, a notice of the upcoming election.

(2) The notice shall contain:

(i) the date, time, and place of the election;

(ii) a description of which employees are eligible to vote in the election;

(iii) notification that a list of the names and home addresses of employees eligible to vote will be provided to the participating employee organizations;

(iv) instructions on how employees can remove their addresses from the list in accordance with subsection (c)(2) of this section; and

(v) any other information that, in the judgment of the labor relations administrator, is appropriate to convey to Commission employees.

(c) (1) At least 45 days before an election, the labor relations administrator shall obtain from the Commission the eligible employee voting list, which includes the names and home addresses of every employee in the bargaining unit.

(2) Commission employees may have their addresses removed from the eligible employee voting list by individually notifying the labor relations administrator in writing within 15 days after the posting of the notice required in subsection (b) of this section.

(3) After the 15–day period, the labor relations administrator shall provide the redacted eligible employee voting list to the employee organization.

(4) The provision of the eligible employee voting list under this subsection by the Commission, the labor relations administrator, or a Commission official, employee, or other agent does not constitute a violation of § 4–331 of the General Provisions Article or any State or local law, regulation, or ordinance.

(d) Elections shall be conducted by secret ballot containing:

(1) the name of each employee organization that submits a valid petition requiring an election;

(2) the name of any other employee organization supported by a petition signed by at least 10% of the eligible employees in the bargaining unit; and

(3) an option for no representation.

(e) (1) If none of the choices on the ballot receives a majority of the votes cast, the labor relations administrator shall hold a runoff election.

(2) In the runoff election, the ballot shall contain the two choices that received the highest number of votes in the initial election.

(f) After the election, the labor relations administrator shall certify an employee organization that received a majority of the votes cast as the exclusive representative.

(g) The Commission and the employee organization or organizations shall share equally the costs of the election.

(h) (1) Elections may not be conducted:

(i) within 1 year after the date of a valid initial election under this section; or

(ii) except as provided in paragraph (2) of this subsection, during the term of a collective bargaining agreement.

(2) During the term of a collective bargaining agreement, a petition for an election may be filed only during November of the fiscal year in which the agreement expires.

§18–206.

(a) If the Commission and an employee organization dispute the eligibility of an employee in a bargaining unit, the dispute shall be submitted to the labor relations administrator.

(b) The labor relations administrator shall hold one or more evidentiary hearings at which the Commission and interested employee organizations shall have the opportunity to present testimony, documentary and other evidence, and arguments.

(c) The decision of the labor relations administrator is final.

(d) The Commission and the employee organization or organizations shall share equally the costs of the hearings.

§18–207.

(a) The Commission and an employee organization certified as the exclusive representative shall meet and engage in collective bargaining in good faith regarding:

(1) salary and wages, including the percentage of the increase in the salary and wages budget that will be devoted to merit increments and cash awards;

(2) pension and other retirement benefits for active employees;

(3) employee benefits such as insurance, leave, holidays, and vacations;

(4) hours and working conditions;

(5) provisions for the orderly processing and settlement of grievances concerning the interpretation and implementation of a collective bargaining agreement that may include:

(i) binding third party arbitration; and

(ii) provisions for the exclusivity of forum;

(6) matters affecting the health and safety of employees; and

(7) the effect on employees of the exercise of the Commission's rights and responsibilities under § 18–211 of this subtitle.

(b) This section does not require the Commission or the employee organization to agree to any proposal or to make any concession.

(c) (1) (i) Collective bargaining may not begin later than September 1 before the beginning of a fiscal year for which an agreement has not been reached between the Commission and the certified representative.

(ii) Collective bargaining shall finish on or before the following February 1.

(2) During the period set in paragraph (1) of this subsection, the parties shall negotiate in good faith.

(d) Salaries and wages shall be uniform for all employees in the same classification.

(e) The Commission and the employee organization shall share equally the costs of binding arbitration.

(f) (1) Notwithstanding any other provision of this subtitle, pension and other retirement benefits for active employees may not be subject to binding arbitration.

(2) Collective bargaining regarding pension and other retirement benefits for active employees may not require the Commission to offer more than one pension plan to its employees.

(3) If more than one employee organization is certified as an exclusive representative of a bargaining unit, the Commission shall engage in collective bargaining with all exclusive representatives at the same time about the terms of pension and other retirement benefits for active employees.

§18–208.

(a) (1) If the parties have not reached an agreement on or before December 1 on a collective bargaining agreement that would become effective the following July 1, the parties shall jointly appoint a mediator–arbitrator.

(2) If the parties are unable to agree on a mediator–arbitrator, the labor relations administrator shall name the mediator–arbitrator on or before December 7.

(3) Notwithstanding appointment of the mediator–arbitrator, this section does not require commencement of mediation–arbitration before the date stated in subsection (c) of this section.

(b) During the course of the collective bargaining, either party may declare an impasse and request the services of the mediator–arbitrator, or the parties may jointly request the services of a mediator–arbitrator before an impasse is declared.

(c) If the mediator–arbitrator finds in the mediator–arbitrator's sole discretion that the parties are at a bona fide impasse or on February 1, whichever occurs earlier, the mediator–arbitrator shall direct the parties to submit:

(1) a joint memorandum listing all items to which the parties previously agreed; and

(2) a separate memorandum of each party's last final offer presented in negotiations on all items to which the parties did not previously agree.

(d) (1) On or before February 10, the mediator–arbitrator shall hold a closed hearing on the parties' proposals at a time, date, and place selected by the mediator–arbitrator.

(2) Each party shall submit evidence or make oral and written argument in support of the party's last final offer.

(3) The mediator–arbitrator may not open the hearing to a person who is not a party to the mediation–arbitration.

(e) (1) On or before February 15, the mediator–arbitrator shall issue a report that resolves all items that the parties have not agreed on previously.

(2) In resolving the items not previously agreed on, the mediator–arbitrator may consider the following factors:

(i) past collective bargaining contracts between the parties, including the past bargaining history that led to the agreement or the pre–collective bargaining history of employee wages, hours, benefits, and other working conditions;

(ii) a comparison of wages, hours, benefits, and conditions of employment of similar employees of other public employers in the State and the Washington, D.C. metropolitan area;

(iii) a comparison of wages, hours, benefits, and conditions of employment of similar employees of private employers in Montgomery County and Prince George's County;

(iv) the public interest and welfare;

(v) the ability of the employer to finance any economic adjustments required under the proposed agreement;

(vi) the effect of any economic adjustments on the standard of public services normally provided by the employer; and

(vii) the annual increase or decrease in consumer prices for all items as reflected in the most recent Consumer Price Index – Urban Wage Earners and Clerical Workers ("CPI–W") for the Washington Metropolitan Area.

(3) In resolving the items not previously agreed on, the mediator–arbitrator shall consider all items on which the parties agreed before the mediation–arbitration began to be integrated with each offer.

(f) (1) (i) Subject to subparagraph (ii) of this paragraph, without ratification by the parties, the offer selected by the mediator–arbitrator, as integrated with the items on which the parties previously agreed, shall be the final agreement between the Commission and the exclusive representative.

(ii) The Commission shall request funds in the Commission's final budget from the county councils of Montgomery County and Prince George's County for all economic provisions of the final agreement.

(2) The parties shall execute an agreement incorporating the final agreement, including mediation–arbitration awards and all issues agreed to under this subtitle.

(g) The Commission and the employee organization shall share equally the costs of the mediator–arbitrator's services.

§18–209.

(a) The Commission and an employee organization certified as the exclusive representative of a bargaining unit shall execute a collective bargaining agreement incorporating all matters of agreement on wages, hours, and other terms and conditions of employment.

(b) If a collective bargaining agreement provides for a grievance procedure, that grievance procedure shall be the sole procedure for employees in the bargaining unit.

(c) The collective bargaining agreement may include an agency shop or other union security provision.

(d) The collective bargaining agreement supersedes any conflicting regulation or administrative policy of the Commission.

(e) A single–year or multiyear collective bargaining agreement shall expire at the close of the appropriate fiscal year.

(f) A collective bargaining agreement takes effect on the approval by the Commission and the membership of the union representing the bargaining unit.

(g) This section does not limit an employee's right to an appeal to the Office of Administrative Hearings under § 18–123(b) of this title.

§18–210.

(a) (1) The Commission shall include in its annual proposed operating budget, which it submits to the county executives of Montgomery County and Prince George's County, provisions for the funding of all terms included in all collective bargaining agreements.

(2) Unless the county councils of Montgomery County and Prince George's County both approve the Commission's budget so as to approve the terms of the collective bargaining agreement, the Commission and the employee organization, within 5 days after the annual joint county council meeting, shall reopen the negotiated agreement and bargain with respect to the provisions of the agreement not approved by the county councils.

(b) If a provision in a collective bargaining agreement is not funded by Montgomery County or Prince George's County or is ruled invalid, the remainder of the agreement remains in effect unless reopened under subsection (a)(2) of this section.

§18–211.

This subtitle and any agreement made under it may not impair the right and responsibility of the Commission to:

(1) determine the overall budget and mission of the Commission;

(2) maintain and improve the efficiency and effectiveness of operations;

(3) determine the services to be rendered and the operations to be performed;

(4) determine the location of facilities and the overall organizational structure, methods, processes, means, job classifications, and personnel by which operations are to be conducted;

(5) direct and supervise employees;

(6) hire, select, and establish the standards governing promotion of employees and classify positions;

(7) relieve employees from duties because of lack of work or funds or when the Commission determines continued work would be inefficient or nonproductive;

(8) take actions to carry out the missions of government in situations of emergency;

(9) transfer and schedule employees;

(10) determine the size, grades, and composition of the workforce;

(11) set the standards of productivity and technology;

(12) establish employee performance standards and evaluate and assign employees, except that evaluation and assignment procedures may be a subject for collective bargaining;

(13) make and implement systems for awarding outstanding service increments, extraordinary performance awards, and other merit awards;

(14) introduce new or improved technology, research, development, and services;

(15) control and regulate the use of machinery, equipment, and other property and facilities of the Commission, subject to § 18–207(a)(6) of this subtitle;

(16) maintain internal security standards;

(17) create, alter, combine, contract out, or abolish any job classification, department, operation, unit, or other division or service;

(18) suspend, discharge, or otherwise discipline employees for cause, subject to the grievance procedure stated in the collective bargaining agreement or as provided by law; and

(19) issue and enforce rules, policies, and regulations necessary to carry out this section and all other managerial functions that are not inconsistent with federal or State law or the terms of a collective bargaining agreement.

§18–212.

(a) (1) The Commission may not:

(i) interfere with, coerce, or restrain an employee in the exercise of rights under this subtitle;

(ii) dominate, interfere with, or assist in the formation, administration, or existence of any employee organization or contribute financial assistance or other support to an employee organization;

(iii) encourage or discourage membership in any employee organization by discriminating against an employee through hiring, tenure, promotion, or other conditions of employment;

(iv) discharge or discriminate against an employee because the employee has signed or filed an affidavit, petition, or complaint or given any information or testimony under this subtitle; or

(v) refuse to bargain in good faith with an employee organization that is certified as the exclusive representative of a bargaining unit over any subject of bargaining or refuse to participate in good faith in binding arbitration or grievance procedures under this subtitle.

(2) Paragraph (1)(ii) of this subsection does not prohibit the Commission from allowing employees to negotiate or to confer with the Commission over labor matters during work hours without the loss of pay or time.

(b) The Commission may not contract out work that will displace employees in a bargaining unit unless the Commission gives written notice to the certified representative of the bargaining unit at least 90 days before signing the contract or within a different period of time as agreed by the parties.

§18–213.

(a) An employee organization may not:

(1) interfere with, coerce, or restrain an employee in the exercise by the employee of any right under this subtitle;

(2) cause or attempt to cause the Commission to discriminate against an employee in the exercise by the employee of any right under this subtitle;

(3) coerce, discipline, fine, or attempt to coerce a member of an employee organization as punishment or reprisal;

(4) coerce, discipline, fine, or attempt to coerce a member of an employee organization for the purpose of impeding the member's work performance;

(5) refuse to negotiate in good faith with the Commission as required under § 18–207 of this subtitle; or

(6) fail or refuse to cooperate in impasse procedures and impasse decisions as required under § 18–208 of this subtitle.

(b) Only an eligible employee may file an unfair labor charge against an employee organization for a violation of subsection (a)(3) or (4) of this section.

§18–214.

(a) Commission employees shall retain the right to:

(1) form, join, or assist any employee organization;

(2) bargain collectively through the representative that they have chosen;

(3) engage in other lawful concerted activities for the purpose of collective bargaining; and

(4) refrain from any activity covered under this paragraph.

(b) An employee may only present a grievance arising under a collective bargaining agreement to the Commission through the employee organization certified as the exclusive representative for the bargaining unit.

(c) (1) An employee who is a member of a bargaining unit with an exclusive representative may discuss any matter with the General Manager of the Commission or the General Manager's designee.

(2) The Commission may not alter any terms or conditions of employment that are subject to collective bargaining under § 18–207 of this subtitle without following the process for collective bargaining under this subtitle.

§18–215.

(a) In this section, "strike" means the action of an employee, in concert with others, to:

(1) refuse to report to work;

(2) stop or slow down work; or

(3) abstain wholly or partly from the full, faithful, and proper performance of duties for the purpose of inducing, influencing, or coercing a change in the terms, conditions, rights, or privileges of employment.

(b) A Commission employee, group of Commission employees, or employee organization may not engage in, induce, initiate, or ratify a strike by Commission employees.

(c) If a strike occurs, a court of competent jurisdiction may enjoin the strike on request of the Commission.

(d) An employee may not receive compensation from the Commission while the employee is engaged in a strike.

(e) (1) If an employee engages in, induces, initiates, or ratifies a strike, the Commission may take appropriate disciplinary action against the employee, including suspension or discharge.

(2) If disciplinary action is taken and appealed, the labor relations administrator shall hold a hearing on the disciplinary action at which the Commission, the employee, and any interested employee organization may present evidence and argument.

(f) (1) If after a hearing an employee organization certified as an exclusive representative is found by the labor relations administrator to have assisted, authorized, or initiated a strike involving the refusal of Commission employees to report for work, the labor relations administrator shall revoke the certification of the employee organization.

(2) An employee organization decertified under paragraph (1) of this subsection may not be recertified for 2 years after the end of the strike.

(3) If after a hearing an employee organization certified as an exclusive representative is found by the labor relations administrator to have assisted, authorized, or initiated any other type of strike, the labor relations administrator may revoke the certification of the employee organization for up to 1 year after the end of the strike.

§18–216.

(a) It is an unfair labor practice for the Commission or an employee organization certified as an exclusive representative of a bargaining unit to violate the rights of a Commission employee under this subtitle.

(b) Within 30 business days after the alleged violation, the party charging an unfair labor practice shall submit the charge in writing to the labor relations administrator and the party alleged to have committed the unfair labor practice.

(c) Within 15 business days after an unfair labor practice charge is submitted, the Commission and the employee organization shall request the labor relations administrator to hold a hearing and decide whether an unfair labor practice has occurred.

(d) The labor relations administrator shall:

(1) conduct the hearing;

(2) issue a finding of facts and conclusion of law;

(3) order the party found to have committed the unfair labor practice to cease and desist from the prohibited practice; and

(4) order all relief necessary to remedy the violation of this subtitle and otherwise to make whole any injured employee or employee organization or the Commission, if injured, including reinstatement, restitution, back pay, or other remedy needed to restore the employee, the employee organization, or the Commission to the position or condition it would have been in but for the violation.

(e) The labor relations administrator may not order punitive damages, consequential damages, damages for emotional distress, pain, and suffering, or attorney's fees for purposes of satisfying the requirements of subsection (d)(4) of this section.

(f) If the labor relations administrator finds that the party charged has not committed an unfair labor practice, the labor relations administrator shall issue an order dismissing the charges.

(g) (1) Subject to paragraph (2) of this subsection, the labor relations administrator's decision is final.

(2) A party may seek judicial review of the decision on the basis that the decision is arbitrary, capricious, or exceeds the authority of the labor relations administrator.

(h) The Commission and the employee organization shall share equally the costs of any unfair labor practice proceeding.

(i) If the party found to have committed the unfair labor practice fails or refuses to comply with the labor relations administrator's decision in whole or in part, the charging party may file an action to enforce the order with the circuit court for the county in which any of the involved employees work.

§18–217.

(a) This section applies to the expression of any personal view, argument, or opinion or the making of any personal statement that:

(1) (i) publicizes the fact of a representational election and encourages employees to exercise their right to vote in the election;

(ii) corrects the record with respect to any false or misleading statement made by any person; or

(iii) informs employees of the Commission's policy relating to labor–management relations and representation;

(2) does not contain a threat of reprisal, force, or promise of benefit; and

(3) is not made under coercive conditions.

(b) The expression of any personal view, argument, opinion, or statement described in subsection (a) of this section does not constitute:

(1) an unfair labor practice under the provisions of this subtitle; or

(2) grounds for setting aside any election conducted under this subtitle.

§19–101.

In this title, "Board" means the Board of Ethics established by the Commission under regulations adopted in accordance with Title 5, Subtitle 8, Part IV of the General Provisions Article.

§19–102.

(a) Except where provisions of this title exceed the minimum standards of the Maryland Public Ethics Law, commissioners and employees of the Commission are subject to the conflict of interest and lobbying provisions of the Maryland Public Ethics Law.

(b) Notwithstanding any other provision of law, a commissioner, employee, contractor, or subcontractor of the Commission may not willfully and knowingly violate:

(1) any provision of this title;

(2) the Maryland Public Ethics Law; or

(3) any Commission regulation governing:

(i) conflicts of interest;

(ii) financial disclosure;

(iii) lobbying; or

(iv) ethics in public contracting.

§19–103.

(a) A commissioner shall disclose any conflicts of interest under the Maryland Public Ethics Law at a Commission meeting.

(b) The commissioner may not participate in any decision or act affected by the conflict of interest.

§19–104.

A commissioner may not attempt to influence a county or State official in the conduct of the official's duties for a purpose contrary to:

(1) this title; or

(2) the Maryland Public Ethics Law.

§19–105.

(a) A commissioner or employee of the Commission who receives an ex parte communication that concerns a case where a determination or decision is required by law to be made only after a public hearing for interested parties shall make the ex parte communication public and part of the record of the proceeding.

(b) A commissioner or employee of the Commission who receives an ex parte communication that concerns the merits of a case where the commissioner's or employee's determination or decision is required by law to be made only after a public hearing for interested parties shall:

(1) note the substance of an oral ex parte communication for the record; and

(2) place the substance of a written ex parte communication on the record.

§19–106.

(a) The Board and its counsel each may:

(1) administer oaths; and

(2) issue subpoenas for the attendance of witnesses to testify or to produce other evidence.

(b) A subpoena issued under this section may be enforced judicially.

§19–107.

(a) Notwithstanding any other provision of the Commission code of ethics, judicial enforcement under this section in the investigation of a complaint alleging improper disclosure of confidential information shall apply only to information that is subject to denial of a request for information under the Maryland Public Information Act.

(b) If a respondent is required to file a financial disclosure statement, for each financial disclosure statement found to have been filed late, the respondent shall pay a fee of $5 for each day the filing is late, not to exceed a total of $500.

(c) (1) A respondent aggrieved by a final order of the Board may seek judicial review as provided under Title 10, Subtitle 2 of the State Government Article.

(2) (i) Unless the Board and the respondent mutually agree otherwise, an order of the Board is stayed until the time for seeking judicial review expires.

(ii) If a timely appeal is filed, the order is stayed until final disposition by the court.

(3) The Commission may seek judicial enforcement:

(i) of an order of the Board; or

(ii) in accordance with § 19–108 of this title, to ensure compliance with its regulations governing:

1. conflicts of interest;

2. financial disclosure;

3. lobbying; or

4. ethics in public contracting.

§19–108.

A court may:

(1) compel compliance with an order of the Board or Commission regulations governing conflicts of interest, financial disclosure, lobbying, or ethics in public contracting by:

(i) issuing an order to cease and desist from the violation; or

(ii) granting other injunctive relief; and

(2) impose a fine not exceeding $5,000 for a violation of this title or Commission regulations governing conflicts of interest, financial disclosure, lobbying, or ethics in public contracting.

§20–101.

(a) In this subtitle the following words have the meanings indicated.

(b) "Design/build contract" means a contract that provides for both architectural and engineering design services and construction services as a part of a single contract.

(c) "Evaluated bid price" means the price of a bid after adjustment in accordance with objective measurable criteria.

(d) "Facilities construction contract" means a contract that provides services for the construction of:

(1) a water or wastewater treatment plant;

(2) a water or wastewater pumping station and related force mains in the pumping station site limits;

(3) a water storage facility;

(4) a wastewater storage facility;

(5) a building for Commission purposes; or

(6) a pipeline.

(e) "Objective measurable criteria" means standards that enable the Commission to compare the economy, effectiveness, or value of the subject of the bids.

§20–102.

This subtitle applies only to:

(1) design/build contracts; and

(2) construction contracts.

§20–103.

If the Commission decides to proceed with the design or construction of a water supply or sanitary sewer system, the Commission shall comply with the requirements of this subtitle.

§20–104.

(a) The Commission shall provide an opportunity for a hearing before proceeding with the design or construction of a water supply or sanitary sewer system.

(b) Subject to subsection (c) of this section, the Commission:

(1) shall advertise in newspapers and technical media that the Commission considers appropriate for bids or proposals for design or construction services for any part of a water supply or sanitary sewer system; and

(2) may readvertise any part of the services needed if the Commission considers the prices quoted in response to a prior advertisement to be unreasonable.

(c) (1) Subject to paragraph (2) of this subsection, the Commission may use day labor to complete any part of the design or construction of a water supply or sanitary sewer system.

(2) Notwithstanding § 20–105(a) of this subtitle, the Commission may spend up to $15,000 for day labor for any part of construction services without advertising for or receiving bids or proposals.

(d) (1) Except as provided in paragraph (2) of this subsection, the Commission may enter into any type of contract under this subtitle that promotes the best interest of the Commission.

(2) The Commission:

(i) may not enter a cost–plus–percentage–of–cost contract; and

(ii) shall prohibit a cost–plus–percentage–of–cost subcontract under a contract with the Commission.

(e) The Commission may only enter into a design/build contract for a facilities construction contract with costs exceeding $2,000,000.

(f) The Commission may reject any bid or proposal.

(g) (1) The Commission may require a contract to be secured by bonds, penalties, and conditions.

(2) Security authorized under this subsection is enforceable in any court of competent jurisdiction.

(h) The Commission:

(1) may adopt regulations to establish a prequalification process for bidders or offerors; and

(2) shall adopt regulations to govern discussions held with offerors under § 20–105(c)(3) of this subtitle.

§20–105.

(a) The Commission shall award contracts by:

(1) competitive sealed bids in accordance with subsection (b) of this section; or

(2) competitive sealed proposals in accordance with subsection (c) of this section.

(b) (1) If a contract is awarded based on competitive sealed bids, the Commission shall seek bids by issuing an invitation for bids.

(2) Subject to paragraphs (3) through (5) of this subsection, an invitation for bids shall:

(i) include the contract specifications, including the expected degree of minority business enterprise participation provided under Subtitle 2 of this title; and

(ii) state whether the contract will be awarded based on the lowest bid price or the lowest evaluated bid price.

(3) If a contract will be awarded based on an evaluated bid price, the invitation for bids shall include the objective measurable criteria by which the lowest evaluated bid price will be determined.

(4) The Commission shall award contracts based on competitive sealed bids to the responsible bidder who submits the lowest bid price or lowest evaluated bid price, as appropriate.

(5) If the Commission determines that an initial preparation of specifications for price bids is impractical, the invitation for bids may:

(i) include a request for an unpriced technical offer or sample; and

(ii) direct a bidder to submit:

1. a sealed price bid with the unpriced technical offer or sample; or

2. a price bid after the Commission:

A. evaluates the technical offer or sample; and

B. finds that the offer or sample is acceptable under the criteria set forth in the invitation for bids.

(6) If an invitation for bids includes a request for an unpriced technical offer or sample, the Commission shall:

(i) consider the price bid of a bidder whose technical offer or sample is acceptable;

(ii) return unopened the price bid of a bidder whose technical offer or sample is unacceptable; and

(iii) award the contract to the responsible bidder whose technical offer or sample is acceptable and who submits the lowest bid price or lowest evaluated bid price, as specified in the invitation for bids.

(c) (1) If a contract is awarded based on competitive sealed proposals, the Commission shall seek proposals by issuing a request for proposals.

(2) A request for proposals shall include:

(i) a statement describing the scope of the contract, including the expected degree of minority business enterprise participation provided under Subtitle 2 of this title;

(ii) the factors, including price, that will be used in evaluating proposals; and

(iii) the relative importance of each factor.

(3) After receipt of proposals, but before the contract is awarded, the Commission may conduct discussions with an offeror to:

(i) obtain the best price for the Commission; and

(ii) ensure full understanding of the requirements of the Commission, as set forth in the request for proposals and in the proposal.

(4) The Commission:

(i) shall treat all responsible offerors fairly and equally; and

(ii) may allow each responsible offeror to revise the offeror's initial proposal and submit a best and final offer.

(5) The Commission shall award a contract based on competitive sealed proposals to the responsible offeror who submits the proposal or best and final offer that the Commission determines is the most advantageous to the Commission, considering the evaluation factors set forth in the request for proposals.

§20–201.

(a) In this subtitle the following words have the meanings indicated.

(b) "Minority business enterprise" has the meaning stated in § 14–301 of the State Finance and Procurement Article.

(c) "Office" means the Office of Supplier Diversity and Inclusion established under § 20–203 of this subtitle.

§20–202.

The General Assembly finds the following:

(1) the General Assembly wishes to provide all citizens of Maryland with equal access to business formation and business growth opportunities;

(2) the elimination of discrimination against minority– and women–owned businesses is of paramount importance to the future welfare of the community served by the Commission;

(3) the Commission has procured, received, accepted, and carefully reviewed a disparity study commissioned by the Commission and finds that the disparity study provides a strong basis in evidence demonstrating persistent discrimination against minority– and women–owned businesses;

(4) based on its review of the disparity study:

(i) there are substantial and statistically significant adverse disparities that are strong evidence of discrimination against minorities and nonminority women in wages, business formation, business owner earnings, and access to capital in the same geographic markets and industry categories in which the Commission does business;

(ii) the Commission would become a passive participant in private sector racial and gender discrimination if it eliminated its remedial efforts,

including the operation of the minority business enterprise utilization program established under § 20–204 of this subtitle;

(iii) there remain substantial and statistically significant adverse disparities that are consistent with discrimination against minorities and nonminority women in the Commission's own procurement despite the Commission's assertive efforts to curtail that discrimination;

(iv) there are substantial and statistically significant adverse disparities that are consistent with discrimination against businesses owned by minorities and nonminority women in all major industry categories in which the Commission procures goods and services;

(v) there is ample evidence that discrimination in the private sector has depressed business formation and business growth among minority and nonminority women entrepreneurs in the geographic markets and industry categories in which the Commission does business; and

(vi) there is powerful and persuasive qualitative evidence, both statistical and anecdotal, of discrimination against minority and nonminority women business owners in both the public and private sectors in the geographic markets and industry categories in which the Commission does business;

(5) as a result of ongoing discrimination and the present day effects of past discrimination, minority– and women–owned businesses combined continue to be significantly underutilized relative to their availability to perform work in all of the procurement categories in which the Commission does business;

(6) minority prime contractors also are subject to discrimination and confront especially daunting barriers in attempting to compete with very large and long–established nonminority companies;

(7) despite the fact that the Commission has employed, and continues to employ, numerous and robust race–neutral remedies, including aggressive outreach and advertising, training and education, a small local business program, and other efforts, there is a strong basis in evidence that discrimination persists even in public sector procurement where these efforts have been employed;

(8) this subtitle ensures that race–neutral efforts will be used to the maximum extent feasible and that race–conscious measures will be used only where necessary to eliminate discrimination that was not alleviated by race–neutral efforts;

(9) this subtitle continues and enhances efforts to ensure that the Commission limits the burden on nonminority businesses as much as possible by

ensuring that all goals are developed using the best available data and that waivers are available when contractors make good faith efforts;

(10) this subtitle ensures that the operation of the minority business enterprise utilization program established under § 20–204 of this subtitle is consistent with the disparity study data and is narrowly tailored to the compelling interests of the State; and

(11) Commission efforts to support the development of competitively viable businesses owned by women and minorities will assist in reducing discrimination and creating jobs for all citizens of Maryland.

§20–203.

(a) There is an Office of Supplier Diversity and Inclusion in the Commission.

(b) The head of the Office is the Director of the Office of Supplier Diversity and Inclusion.

(c) The Office shall:

(1) administer each Commission program that is created to remedy discrimination against minority business enterprises and promote the participation of local small business enterprises, including:

(i) the minority business enterprise utilization program under § 20–204 of this subtitle; and

(ii) the local small business enterprise program under Subtitle 3 of this title;

(2) promote and coordinate the plans, programs, and operations of the Commission to remedy discrimination against minority business enterprises and the effects of discrimination;

(3) promote activities and the use of the resources of the Commission, local governments, and private entities to remedy discrimination against minority business enterprises and the effects of discrimination; and

(4) ensure compliance with certified minority business enterprise subcontract participation goals under § 20–206 of this subtitle.

§20–204.

(a) (1) By resolution and adopting regulations, the Commission shall establish a minority business enterprise utilization program to remedy discrimination against minority business enterprises in contracts awarded by the Commission if the Commission determines that:

(i) there is a strong basis in evidence that minority business enterprises are subject to discrimination; and

(ii) a program is necessary to remedy the effects of this discrimination.

(2) The Office shall administer the program established under this subsection.

(b) Regulations that establish the program under subsection (a) of this section shall include provisions that:

(1) recognize the certification of minority business enterprises by the State certification agency designated under § 14–303(b) of the State Finance and Procurement Article and the regulations adopted under Title 14, Subtitle 3 of the State Finance and Procurement Article;

(2) recognize any other certification program that the Commission determines, under § 20–205 of this subtitle, substantially duplicates the requirements of the State certification agency;

(3) provide for the graduation of a minority business enterprise from the program if the Commission determines that the minority business enterprise no longer requires the assistance or benefits offered by the program;

(4) at the time of submission, require a bid or proposal based on a solicitation with an expected degree of minority business enterprise participation to include proof of a certified minority business enterprise commitment by stating:

(i) the potential subcontract opportunities available in the prime procurement contract; and

(ii) the number of minority business enterprises that have certified, under the penalties for perjury, that the minority business enterprise has entered into an agreement with the bidder or offeror to provide goods or services under specific terms outlined in the certification;

(5) require each prime contractor to submit to the Commission monthly reports containing information required by the Office;

(6) require each prime contractor to provide prompt notification to the Commission before the termination of a contract with a minority business enterprise;

(7) require each prime contractor to:

(i) maintain participation from minority business enterprises that is consistent with the participation referenced under item (4)(ii) of this subsection; or

(ii) provide justification for the inability of the prime contractor to maintain the participation;

(8) provide for minority business enterprise participation through contract–specific goals;

(9) (i) authorize the waiver of all or part of the program for a specific contract if the Commission determines that applying the program to the contract would conflict with the law or the overall objectives and responsibilities of the Commission; and

(ii) require the Commission to report annually to the Montgomery County and Prince George's County Senate and House Delegations to the Maryland General Assembly on any waivers granted under this subsection;

(10) except as provided in item (11) of this subsection, allow for a system of granting a price preference of up to the lesser of 5% or $50,000 to minority business enterprises in evaluating bids or proposals, including the availability of a good faith waiver provision for a preference;

(11) subject to subsection (d) of this section, establish a sheltered market program in which bidding on procurement contracts designated by the Commission as appropriate is restricted to certified minority business enterprises;

(12) require the solicitation document accompanying each solicitation to set forth the regulations that establish the program;

(13) require the geographic location and the principal place of business of the minority business enterprise to be a consideration for participation in the program, including requiring Montgomery County businesses and Prince George's

County businesses to each have a targeted percentage of at least 40% of any contracts; and

(14) authorize the Commission to:

(i) refuse to recognize the certification of a business found to be in violation of the purposes of the program; and

(ii) permanently bar an active principal of a violating business from future participation in the program.

(c) Before accepting an alternative certification program under subsection (b)(2) of this section, the Commission shall examine the alternative program to ensure that:

(1) the alternative program complies with the guidelines established under § 20–205 of this subtitle; and

(2) the principal owner of an eligible minority business enterprise is in not more than one certified business that is participating in the Commission minority business enterprise utilization program under this section.

(d) (1) The sheltered market program established in subsection (b)(11) of this section may not be used until all less restrictive remedies under subsection (b) of this section and race–neutral remedies, including assistance with bonding requirements, financing, or bidding procedures for small firms, have been used and determined to be ineffective.

(2) If at least three certified minority business enterprises bid on a contract under the sheltered market program, the Commission shall award the contract to the lowest bidder.

(3) If fewer than three certified minority business enterprises bid on a contract under the sheltered market program, the contract shall be awarded under subsection (b)(10) of this section.

§20–205.

(a) To participate in the contract–specific goals and preferences authorized under this subtitle, a business must:

(1) be certified by a certification agency in accordance with Title 14, Subtitle 3 of the State Finance and Procurement Article and the regulations adopted under that subtitle;

(2) (i) be certified by any certification agency; and

(ii) submit all additional documentation necessary for the Office to determine that the business meets the requirements of Title 14, Subtitle 3 of the State Finance and Procurement Article and the regulations adopted under that subtitle; or

(3) be certified under a certification program that the Commission determines substantially duplicates the requirements for a State certification agency under Title 14, Subtitle 3 of the State Finance and Procurement Article and the regulations adopted under that subtitle.

(b) To substantially duplicate the requirements for a State certification agency under Title 14, Subtitle 3 of the State Finance and Procurement Article and the regulations adopted under that subtitle, a certification program shall, at a minimum, have certification requirements that are at least as narrowly tailored as the State's requirements in Title 14, Subtitle 3 of the State Finance and Procurement Article and the regulations adopted under that subtitle with respect to:

(1) business ownership and control;

(2) business size standards;

(3) business owner personal net worth; and

(4) business owner social and economic disadvantage.

(c) If the Office determines that a business seeking to participate in the minority business enterprise utilization program established under § 20–204 of this subtitle has a certification that does not substantially duplicate the requirements in Title 14, Subtitle 3 of the State Finance and Procurement Article and the regulations adopted under that subtitle, the Office may:

(1) request and evaluate documentation and evidence necessary to determine whether the business may be authorized to participate in programs under this subtitle; and

(2) following the evaluation under item (1) of this subsection, authorize a business to participate in programs under this subtitle.

§20–206.

(a) The Office shall verify that a certified minority business enterprise listed in a schedule of participation is actually performing work and receiving compensation as established in the schedule.

(b) To facilitate the Office completing its duties under subsection (a) of this section, a contractor shall:

(1) allow the Office to inspect any relevant matter, including records and the job site;

(2) allow the Office to interview subcontractors and employees of the contractor;

(3) ensure that subcontractors comply with Commission regulations;

(4) include in the agreement with the certified minority business enterprise subcontractor a requirement that the subcontractor submit a monthly report to the Commission that:

(i) identifies the prime contract; and

(ii) lists payments received from the contractor in the previous month and invoices sent to the contractor that have not been paid; and

(5) submit a monthly report to the Commission that lists:

(i) unpaid invoices that are more than 30 days old received from certified minority business enterprise subcontractors; and

(ii) the reason payments have not been made.

(c) (1) (i) On completion of a contract or before final payment or release of retainage, the Commission may require a prime contractor on a contract having a minority business enterprise subcontracting goal to submit to the Commission a final report of all payments made to or withheld from minority business enterprise subcontractors.

(ii) The final report shall be in affidavit form and under the penalties for perjury.

(2) Each solicitation shall contain notice of the requirements of this subsection.

(d) (1) On a finding that a contractor is noncompliant, the Commission shall notify the contractor in writing of the findings and state the required corrective action.

(2) A noncompliant contractor shall:

(i) initiate the corrective action within 10 days after receiving the written notice; and

(ii) complete the corrective action within the time specified by the Commission.

(e) If the Commission finds that a prime contractor is in material noncompliance with minority business enterprise contract provisions and the prime contractor fails to take the corrective action required by the Commission, the Commission may:

(1) terminate the contract;

(2) refer the prime contractor to the relevant person for appropriate action; or

(3) initiate any other specific remedy identified in the contract.

§20–207.

(a) By October 31 of each year, the Commission shall issue a report to the Montgomery County and Prince George's County Senate and House Delegations to the Maryland General Assembly concerning:

(1) the implementation and administration of the minority business enterprise programs under this subtitle for the fiscal year ending on the preceding June 30; and

(2) appropriate recommendations concerning the programs.

(b) (1) The Commission may conduct an impartial fact–finding study in connection with a minority business enterprise program for consistency with applicable law.

(2) The Commission shall report the findings of a study completed under this subsection to the Montgomery County and Prince George's County Senate and House Delegations to the Maryland General Assembly.

§20–208.

This subtitle shall be of no effect and may not be enforced after July 1, 2028.

§20–301.

In this subtitle, "program" means a local small business enterprise program.

§20–302.

(a) By resolution or adopting regulations, the Commission may establish a local small business enterprise program.

(b) The Office of Supplier Diversity and Inclusion, established under § 20–203 of this title, shall administer the program.

§20–303.

The purpose of the program is to assist small businesses in Montgomery County and Prince George's County by:

(1) establishing a sheltered market or other appropriate preference; or

(2) facilitating the award of Commission construction contracts or procurement contracts for goods and services to small businesses in Montgomery County and Prince George's County.

§20–304.

(a) The Commission shall adopt:

(1) eligibility criteria for businesses to qualify for the program, including:

(i) the criteria for a small business qualifying under the Small Business Preference Program as established in regulations adopted by the Department of General Services under § 14–203 of the State Finance and Procurement Article;

(ii) a requirement that:

1. the business's principal place of business be in Montgomery County or Prince George's County; or

2. at least 25% of the total number of employees of the business be domiciled in Montgomery County or Prince George's County; and

(iii) any other eligibility criteria that the Commission determines to be necessary or appropriate for the promotion of small businesses in the Commission's service area; and

(2) administrative procedures for conducting the program.

(b) A business may qualify as a local small business enterprise under the program without regard to the race, ethnicity, or gender of the participants in the business.

(c) The Commission shall establish criteria for graduation from the program for a local small business that the Commission determines no longer requires the assistance or benefits offered by the program.

(d) The Commission shall review the eligibility criteria and administrative procedures of the program each year to assess their effectiveness in furthering the purposes of the program.

§21–101.

(a) In this section, "property" includes:

(1) land;

(2) structures;

(3) buildings;

(4) streambeds;

(5) waterways;

(6) water rights;

(7) watersheds;

(8) water systems and parts of water systems; and

(9) wastewater systems and parts of wastewater systems.

(b) The Commission may acquire property for the construction, extension, maintenance, or operation of a project the Commission considers:

(1) necessary to carry out this division; or

(2) in furtherance of this division.

(c) If the Commission decides to acquire property within or outside the sanitary district in accordance with subsection (b) of this section, the Commission may acquire the property:

(1) in fee; or

(2) as an easement.

(d) If the Commission fails to agree on the terms of acquisition with the owner of any property, the Commission may condemn the property by filing a petition for condemnation in the circuit court for the county in which the property is situated, as provided for condemnation of land under the Real Property Article.

(e) The Commission may condemn the interest of any tenant, lessee, or other person having an interest in property that the Commission decides to acquire.

§21–102.

(a) (1) Except as provided in subsection (b) of this section, land used for cemetery purposes may not be condemned unless the Commission adopts a resolution declaring that it is necessary for the public health and safety to acquire the cemetery land, or an easement in the land, immediately by condemnation.

(2) A resolution under this subsection may only be adopted on the affirmative vote of a majority of the commissioners from the county where the cemetery land is located.

(b) (1) The Commission may condemn public or private land used for cemetery purposes, or an easement in the land, without adopting a resolution in accordance with subsection (a) of this section if the land or easement is for the purpose of installing sewer lines or water lines.

(2) Sewer lines or water lines installed on property condemned under paragraph (1) of this subsection shall be constructed underground and enclosed.

(c) The land or easement to be acquired may not disturb:

(1) any existing grave, grave marker, or monument; or

(2) any grave site:

(i) the title to which has been transferred as a result of a bona fide sale or exchange; or

(ii) in which burial rights have vested or been transferred as a result of a bona fide sale or exchange.

§21–103.

If the Commission does not consider the property necessary for the operation of its water, sewer, or stormwater management systems, the Commission may sell, lease, transfer, convey, or dispose of any of its real or personal property on terms and conditions that the Commission considers advantageous.

§21–104.

(a) (1) In this section the following words have the meanings indicated.

(2) "High performance building" means a building that:

(i) meets or exceeds the current version of the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) Green Building Rating System Silver rating; or

(ii) achieves at least a comparable numeric rating according to a nationally recognized, accepted, and appropriate numeric sustainable development rating system, guideline, or standard approved by the Secretary of Budget and Management and the Secretary of General Services.

(3) "Major renovation" means the renovation of a building where:

(i) the building shell is to be reused for the new construction;

(ii) the heating, ventilating, and air–conditioning (HVAC), electrical, and plumbing systems are to be replaced; and

(iii) the scope of the renovation is 7,500 square feet or greater.

(b) It is the intent of the General Assembly that, to the extent practicable:

(1) the Commission shall employ green building technologies when constructing or renovating a Commission–owned building not subject to this section; and

(2) high performance buildings shall meet the criteria and standards established under the "High Efficiency Green Building Program" adopted by the Maryland Green Building Council.

(c) Except as provided in subsections (d) and (e) of this section, if a capital project includes the construction or major renovation of a building that is 7,500 square feet or greater, the building shall be constructed or renovated to be a high performance building.

(d) The following types of unoccupied buildings are not required to be constructed or renovated to be high performance buildings:

(1) warehouse and storage facilities;

(2) garages;

(3) maintenance facilities;

(4) transmitter buildings;

(5) pumping stations; and

(6) other similar types of buildings, as determined by the Commission.

(e) (1) The Commission may request from the county where the proposed capital project is located a waiver from complying with subsection (c) of this section.

(2) On receipt of a written request of a waiver under this subsection, with approval of the county executive, the county council of the county where the proposed capital project is located may issue a waiver under this subsection if the county council determines that the use of a high performance building in a proposed capital project is not practicable.

§21–201.

In this subtitle, "water supply, sanitary sewer, or stormwater management project" includes a:

(1) water main, sewer, or drain or appurtenance of a water main, sewer, or drain;

(2) fire hydrant;

(3) reservoir;

(4) water purification plant;

(5) tank;

(6) pumping station; and

(7) sewage disposal plant.

§21–202.

The purpose of this subtitle is to provide that in emergencies the Commission, in its discretion, may condemn land or interest in land under the optional procedure provided by this subtitle before or after construction of a water supply, sanitary sewer, or stormwater management system, or part of a system, has begun.

§21–203.

This subtitle applies only to land in Prince George's County.

§21–204.

(a) Subject to subsection (b) of this section and §§ 21–205 and 21–206(a) of this subtitle, the Commission may enter on and take possession of remaining land or interest in land described in item (2) of this subsection and proceed with the extension or construction of a water supply, sanitary sewer, or stormwater management project if the Commission:

(1) has acquired or is acquiring by purchase or other procedure, including the condemnation procedures provided for in the Real Property Article and Subtitle 1 of this title, at least one–half of the takings of land or interest in land required for the extension or construction of the project; and

(2) determines that the remaining takings of land or interest in land are needed for the extension or construction of the project.

(b) A building may not be taken under this subtitle.

§21–205.

(a) (1) The Commission's right to enter and take possession of land or an interest in land under this subtitle takes effect immediately after the filing of a written declaration of taking in the Circuit Court for Prince George's County, accompanied by payment of the estimated fair market value of the land or interest in land, as required under § 21–206(a) of this subtitle.

(2) A declaration of taking may be:

(i) combined with a petition for condemnation, filed simultaneously with or as part of the same pleading; or

(ii) filed after a petition for condemnation.

(b) A declaration of taking shall:

(1) include a statement as to the number of takings in land or interest in land necessary for the extension or construction of the water supply, sanitary sewer, or stormwater management project;

(2) include a statement that the Commission has acquired or is acquiring by purchase or procedures other than the declaration of taking method at least one–half of the takings needed for the extension or construction of the project;

(3) contain a description of the land or interest in land being taken;

(4) name the Commission as plaintiff and the owner of the land or interest in land as defendant;

(5) be docketed by the clerk of the circuit court, unless the petition for condemnation is on file or filed simultaneously with the declaration of taking; and

(6) identify the qualified appraiser and specify the estimated fair market value of the land or interest in land being taken, as required by § 21–206(a) of this subtitle.

(c) Notice of and service on the property owner of a declaration of taking shall be accomplished in the same manner as is required for petitions for condemnation.

(d) If the Commission files the declaration of taking accompanied by the payment of the estimated fair market value required under § 21–206(a) of this subtitle, the date of filing shall be the operative date of the taking to determine:

(1) the fair market value of the land or interest in land taken; and

(2) damages, if any, caused by the taking.

§21–206.

(a) (1) With the declaration of taking, the Commission shall pay to the owner of the land or interest in land, or to the Circuit Court for Prince George's County for the owner's benefit, a sum that the Commission estimates to be the fair market value of the land or interest in land being taken.

(2) The Commission's estimate of the fair market value of the land or interest in land being taken may not be less than its appraised value as evaluated by at least one experienced and qualified appraiser, whose qualifications as an appraiser have been accepted by a court of record of the State.

(b) Payment of the estimated fair market value of land or interest in land under this section does not limit the amount that may be awarded with respect to the land or interest in land.

(c) If the estimated fair market value of the land or interest in land is paid into the court under subsection (a) of this section, the property owner, on written request to the clerk of the court, may receive the sum paid without prejudice to any of the owner's rights if the property owner agrees to pay back to the Commission the amount by which the sum paid exceeds the final award.

§21–207.

(a) (1) If the Commission and the owner of the land or interest in land being taken are unable to agree as to the compensation and damages, if any, caused by the taking, the Commission shall institute condemnation proceedings in the manner required by the Real Property Article and the Maryland Rules.

(2) The court shall hear and determine the condemnation proceedings as soon as practicable after the application to the court.

(b) If the condemnation petition is not filed at the same time as the Commission pays the estimated fair market value to the owner or to the court for the owner's benefit, the Commission shall file the condemnation petition not later than 30 days after receipt of notice from the property owner that a disagreement exists as to the compensation and damages, if any, caused by the taking.

§21–301.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) "District council" has the meaning stated in § 14–101 of the Land Use Article.

(ii) "District council" includes a designee or hearing officer appointed by the district council.

(3) "Regional district" has the meaning stated in § 14–101 of the Land Use Article.

(b) An application for amendment to the zoning map of the regional district may be referred by the respective district council to the Commission for the Commission's review and comment.

(c) (1) The Commission shall review each application referred to it and shall report in writing on each application to the appropriate district council not less than 15 days before the regularly scheduled public hearing on the application.

(2) The report shall include an analysis of the probable impact on existing and proposed sewer, water, or other Commission facilities in terms of:

(i) treatment facilities;

(ii) sewer lines of both program and less–than–program size;

(iii) their respective design capacity and present volume flow to capacity relationship;

(iv) construction schedules; and

(v) proposed projects under the 6–year capital improvements program or 10–year water and sewer plan.

(d) With respect to an application referred to the Commission under subsection (b) of this section, the Commission shall provide supplemental information requested by the district council at least 15 days before the regularly scheduled public hearing on the application or within 15 days after the Commission receives the request, whichever is later.

(e) On request of the district council, Commission staff shall appear before the district council to discuss information provided by the Commission under this section.

§21–401.

In this subtitle, "urban renewal authority":

(1) means a unit of government that is engaged in urban renewal activity; and

(2) includes:

(i) the State;

(ii) Montgomery County;

(iii) Prince George's County; and

(iv) any unit of government in Montgomery County or Prince George's County.

§21–402.

If the Commission is paid or assured payment by an urban renewal authority for the Commission's costs and expenditures in accordance with this subtitle, the Commission may cooperate with and assist the urban renewal authority in an urban renewal project undertaken by the urban renewal authority by abandoning, relocating, installing, constructing, or reconstructing water or sanitary sewer facilities in the urban renewal area.

§21–403.

(a) If an urban renewal project or an act of the General Assembly that provides for an urban renewal program requires or results in the abandonment, relocation, realignment, raising, lowering, rebuilding, or removal of any water or sanitary sewer facility of the Commission, the urban renewal authority shall pay to the Commission the entire cost less any salvage value from the old facility.

(b) An urban renewal authority may not allow any Commission structure to be removed, abandoned, or damaged in connection with an urban renewal project until:

(1) the urban renewal authority has paid the Commission; or

(2) payment to the Commission has been assured to the Commission's satisfaction, in accordance with this subtitle.

(c) If an urban renewal project requires the construction of a new water or sanitary sewer facility by the Commission, the Commission may:

(1) construct the facility if:

(i) the costs of the construction will be repaid through existing provisions for special assessments, including front foot benefit charges; or

(ii) the payment is made or assured by the urban renewal authority; and

(2) enter into agreements with an urban renewal authority providing for payment to the Commission over a period of time, with the terms of the contract and rate of interest determined by the Commission.

§22–101.

In this subtitle, "bond" means a bond, note, certificate of indebtedness, security, or other instrument evidencing debt issued and sold or offered for sale in accordance with law.

§22–102.

(a) The Commission may issue bonds of the sanitary district in amounts necessary to carry on its work, including for:

(1) acquisition, design, construction, reconstruction, establishment, extension, enlargement, or condemnation of the water and sewer systems in the sanitary district or in an area where extension of the systems may be authorized by law;

(2) acquisition of land or equipment for, or construction, remodeling, enlargement, or replacement of any office or operating building necessary to administer or operate the systems; or

(3) design and construction of trunk sewers and sewers or portions of sewer lines required to relieve septic tank failures and for which no front foot benefit charges can be collected as determined by the Commission, and sewage pumping stations and sewage disposal facilities, including reimbursement to the District of Columbia or other federal authorities for any construction within the District of Columbia.

(b) (1) The Commission may issue bonds of the sanitary district for the acquisition of capital equipment in amounts necessary to carry on its work, including:

(i) computer equipment;

(ii) laboratory equipment;

(iii) maintenance field and yard equipment;

(iv) office equipment;

(v) telecommunication equipment; and

(vi) trucks and fleet vehicles.

(2) The bonds may be issued only to finance the acquisition of equipment:

(i) with a useful life of 4 to 7 years;

(ii) that the Commission expects to finance over a period of 4 years or less; and

(iii) for which the Commission budgets accordingly.

(3) The principal of the bonds issued under this subsection shall be payable annually beginning not more than 1 year after the date of issue.

(4) The bonds issued under this subsection shall mature not more than 4 years after the date of issue.

(5) The aggregate amount of bonds issued under this subsection outstanding at any time may not exceed $15,000,000, subject to annual upward adjustment in accordance with the Consumer Price Index – All Urban Consumers (CPI–U), for the Washington, DC–MD–VA metropolitan area, over the base year 1997.

(c) Except as otherwise provided in this section, bonds issued under this section shall be issued as serial bonds with the principal payable annually, beginning no later than 3 years from the date of issue.

(d) (1) The bonds shall:

(i) be issued in denominations determined by the Commission;

(ii) bear interest annually at rates the Commission determines to be advantageous to the sanitary district and in the public interest; and

(iii) mature no later than 40 years from the date of issue.

(2) The bonds may be:

(i) registered or coupon bonds; or

(ii) registrable as to principal with interest represented by coupons.

(3) The interest on the bonds shall be payable semiannually.

(e) (1) Notwithstanding any other provision of law, the Commission may issue bonds that have a maturity of more than 1 year as fully registered bonds without coupons.

(2) The Commission may determine the form of the bonds issued under paragraph (1) of this subsection for the purposes of:

(i) qualifying the interest on the bonds for exemption from federal income tax; and

(ii) conforming to standards and practices for the registration and transfer of bonds generally followed by banks and trust companies acting as registrars and transfer agents of bonds, including:

1. signing of bonds by facsimile signatures of Commission officers;

2. authentication of bonds by the manual signature of an officer of a bank or trust company signing as the registrar or transfer agent;

3. maintenance by registrars or transfer agents of records of owners of bonds;

4. complying with the standard record date system for payment of interest;

5. issuing bonds on the basis of book entries and certificates; and

6. complying with requirements for the form of bond that is acceptable to central depositories used in the marketing and trading of municipal bond issues.

(f) The bonds of the sanitary district or of the Commission are forever exempt from taxation by the State and counties and municipalities in the State.

(g) The bonds may be made redeemable before maturity at the option of the Commission at the prices and under terms and conditions that the Commission sets before the bonds are issued.

§22–103.

(a) Except as provided in subsection (b) of this section, the aggregate principal amount of bonds outstanding at any time that will not reach full maturity within 5 years from the date of issue may not exceed the greater of:

(1) the sum of:

(i) 3.8% of the total assessable base of all real property assessed for county tax purposes within the sanitary district; and

(ii) 7% of the total assessable personal property and operating real property described under § 8–109(c) of the Tax – Property Article assessed for county tax purposes within the sanitary district; or

(2) the sum of:

(i) 3.8% of the total assessable base of all real property assessed for county tax purposes within the sanitary district as of July 1, 1997; and

(ii) 7% of the total assessable personal property and operating real property described under § 8–109(c) of the Tax – Property Article assessed for county tax purposes within the sanitary district as of July 1, 1997.

(b) (1) In this subsection, "government obligation" means:

(i) a direct obligation of the United States; or

(ii) an obligation unconditionally guaranteed as to principal and interest by the United States.

(2) To calculate the maximum debt authorized under this section, the aggregate amount of bonds outstanding is reduced by:

(i) the amount held in the joint sinking fund account for the payment of principal of the bonds; and

(ii) the amount of any bond for which there is irrevocably deposited:

1. cash; or

2. government obligations maturing as to principal and interest at times and in amounts sufficient to provide adequate and complete payment of the principal or redemption price and interest as required on the bond.

(c) Except as otherwise provided by an act of the General Assembly of Maryland, the maximum debt level authorized under this section applies to any bond issued under an act of the General Assembly of Maryland enacted on or after July 1, 1997.

§22–104.

(a) (1) The bonds shall be:

(i) issued under the hand and seal of the Commission; and

(ii) guaranteed as to payment of principal and interest by Montgomery County and Prince George's County.

(2) Each bond shall contain the following statement:

"The payment of interest when due and the principal at maturity is guaranteed by Montgomery and Prince George's counties, Maryland".

(b) (1) The bonds of the sanitary district shall be signed:

(i) by the chair, secretary, and treasurer of the Commission; or

(ii) if authorized by the Commission, by any two commissioners.

(2) The official seal of the Commission shall be impressed on a bond of the sanitary district.

(3) For bonds issued for the purposes described under § 22–102(a)(1) and (2) of this subtitle, the Commission may authorize:

(i) any of its officials to sign a bond by facsimile signature; and

(ii) a facsimile of the official seal to be printed on the bond.

(4) For bonds issued for the purposes described under § 22–102(a)(3) of this subtitle, the Commission may authorize:

(i) any of its officials to sign a bond by facsimile signature, provided that the bond is manually signed by at least one official; and

(ii) a facsimile of the official seal to be printed on the bond.

(c) Within 20 days after the bonds are presented by the Commission for signing, the guaranty or endorsement by Montgomery County and Prince George's County shall be signed on each of the bonds on behalf of each county by the county executives of Montgomery County and Prince George's County, or by the county executive's designee, by facsimile or manual signature as the county executive determines.

(d) The liability under the guarantee for each county is in the same proportion that the assessable base of that part of that county within the sanitary district bears to the assessable base of the sanitary district.

(e) (1) The Commission may waive the guarantee required under subsection (d) of this section, if the Commission determines that:

(i) the waiver would not seriously affect the sale of the bonds of the sanitary district; and

(ii) money market conditions justify the sale of the bonds of the sanitary district without the guarantee.

(2) The waiver of the guarantee under paragraph (1) of this subsection on one issue of bonds may not be construed to be a waiver of the guarantee of future bond issues.

§22–105.

(a) (1) If a bond issued by the Commission is destroyed, lost, or mutilated, the Commission may execute and deliver to the holder or registered owner of the bond a new bond with the same date, number, maturity, and tenor:

(i) on conditions to evidence ownership and the destruction or loss of the bond that the Commission determines; or

(ii) in exchange and substitution for and cancellation of the mutilated bond and any interest coupons.

(2) The Commission may require indemnity and payment of charges in connection with the exchange or substitution of a bond.

(b) (1) If the destroyed, lost, or mutilated bond was guaranteed by Montgomery County and Prince George's County, the new bond issued in substitution shall be endorsed with a guaranty identical to the guaranty on the destroyed, lost, or mutilated bond.

(2) The endorsement shall be signed as provided in § 22–104 of this subtitle.

§22–106.

(a) (1) To retire and pay the interest on bonds issued under this subtitle, each year the county councils of Montgomery County and Prince George's County shall impose against the assessable property that is in the sanitary district a tax sufficient to pay the principal of and interest on the bonds, as and when due and until paid in full.

(2) The tax is to be determined, imposed, collected, and paid over to the Commission as provided in this section.

(3) Each year the Commission shall determine the amount necessary to pay the principal and interest on bonds issued to provide funds for the construction, remodeling, enlargement, or replacement of any office or operating building.

(4) (i) The Commission shall set aside the amount determined under paragraph (3) of this subsection from water service charges, sewer usage charges, house connection charges, and any other charges imposed by the Commission as the Commission determines to be fair and equitable.

(ii) The amount set aside shall be deducted from the amount that the Commission determines to be necessary to be raised by direct taxation under

this section on certification to the county councils of Montgomery County and Prince George's County.

(b) At least 30 days before the taxable year for property taxes, the county executives of Montgomery County and Prince George's County shall certify to the Commission the total valuation of assessable property within the sanitary district in each county.

(c) (1) The Commission shall determine the amount necessary, for the next taxable year, to pay:

(i) interest on all outstanding bonds;

(ii) principal of all serial bonds maturing during the year; and

(iii) the proportionate part of principal of all outstanding sinking fund bonds as determined by the usual table of redemption of bonds by annual deposit in a sinking fund on interest.

(2) After deducting all amounts in hand applicable to payment of interest and principal on the bonds, the Commission shall certify to the county councils of Montgomery County and Prince George's County the number of cents per $100 necessary to raise the amount determined under paragraph (1) of this subsection.

(d) (1) Each year the county councils of Montgomery County and Prince George's County shall impose a tax in the amount determined under subsection (c)(1) of this section on all assessable property within the sanitary district.

(2) The taxes imposed under this section shall:

(i) have the same status as county taxes; and

(ii) be imposed and collected by the tax collecting authority for each county as county taxes.

(e) Every 60 days, each county shall pay to the Commission the taxes collected under this section.

§22–107.

(a) (1) The amount collected by the Commission for benefits imposed against property for water supply and sewer construction under Title 25, Subtitle 2 of this article shall be set aside in a separate fund known as the Current Bond Fund.

(2) (i) The Current Bond Fund shall be used to pay interest on all outstanding bonds.

(ii) The balance of the Current Bond Fund shall be prorated monthly and applied to:

1. the payment of the principal of maturing serial bonds; and

2. the payment into the joint Sinking Fund Account, as provided under § 22–108 of this subtitle, of the proportionate part of the principal of outstanding sinking fund bonds as the outstanding par value of both types of bonds bear to each other.

(b) To determine the amount necessary to be imposed under § 22–106 of this subtitle, the Commission shall deduct the amount to its credit in the Current Bond Fund account from the amount necessary to be raised in any 1 year for interest on all outstanding bonds.

§22–108.

(a) (1) From the money received from the taxes imposed under § 22–106 of this subtitle together with the amount in hand to the credit of the Current Bond Fund or the amount applicable to the payment of interest and principal on the bonds, the Commission shall:

(i) pay all interest on the bonds as and when due; and

(ii) pay or reserve a sufficient amount of money to pay the serial bonds becoming due during the taxable year.

(2) After making the distributions required under paragraph (1) of this subsection, the Commission shall deposit in one or more banks in Montgomery County or Prince George's County, to the credit of both counties and the Commission, as a joint fund to be known as the Sinking Fund Account, the amount raised for the payment of the proportionate part of the principal of the sinking fund bonds.

(b) The Commission and Montgomery County and Prince George's County shall invest money in the Sinking Fund Account in any bonds in which the U.S. Treasury Department authorizes national banks to invest savings or trust funds.

(c) If receipts from the tax or other sources are inadequate to pay the principal of the serial bonds becoming due during the taxable year and to deposit the

principal payment on the sinking fund bonds, the deficiency shall be added to and collected in the following year's tax levy.

(d) Before the first taxable year for property taxes, the Commission may pay the interest on any bonds it issues out of the proceeds of the sale of the bonds.

§22–109.

To ensure the prompt payment of interest and provision for the payment of the principal on bonds issued under this subtitle:

(1) the prompt and proper performance of the acts required under §§ 22–106 and 22–108 of this subtitle is specially enjoined; and

(2) a person who is required to act under §§ 22–106 and 22–108 of this subtitle:

(i) shall perform the acts required under those sections;

(ii) shall pay over any funds as required under those sections; and

(iii) may not use any part of the funds for any other purpose than for the payment of principal and interest on the bonds.

§22–110.

(a) (1) Subject to paragraph (2) of this subsection, the Commission may borrow money in anticipation of taxes, sale of bonds, or other revenue of the fiscal year in which the loan is made or the next succeeding fiscal year to:

(i) pay the principal and interest of bonds due or to become due within 4 months;

(ii) pay the interest becoming due on any bonds within 4 months and not otherwise adequately provided for; or

(iii) meet payments required to be made to employees and laborers and not otherwise provided for.

(2) The loan shall be payable not later than the end of the fiscal year after the year in which the loan is made.

(b) (1) The Commission shall issue negotiable notes for all money borrowed under subsection (a) of this section.

(2) The notes may be renewed and money may be borrowed on new notes to pay any indebtedness.

(3) The notes and loans shall mature within the time limit for the payment of the original loan.

(4) The Commission shall authorize, by resolution, the notes and set:

(i) the actual or maximum face amount of the notes;

(ii) the actual or maximum rate of interest to be paid on the amount borrowed; and

(iii) the actual or approximate maturity of the notes.

(5) The Commission shall determine the form and manner of execution of the notes.

(c) (1) Subject to paragraph (2) of this subsection, the Commission may determine the manner in which the notes may be disposed of.

(2) The aggregate amount of notes outstanding at any one time may not exceed an amount equal to the total principal of and interest on bonds of the sanitary district due and payable in the fiscal year in which the notes are issued.

§22–111.

Each year the Commission shall:

(1) determine the amount necessary to pay the principal and interest requirements of the bonds; and

(2) set the water service charge of the sanitary district at a rate sufficient to pay:

(i) the cost of the service; and

(ii) the requirements of bonds, issued and outstanding, that are to be paid out of the water service.

§22–112.

The amount of water service charges and sewer usage charges collected each year for the payment of principal and interest due on outstanding bonds shall be deducted from the amount that the Commission has determined is necessary to be raised by an ad valorem tax on certification to the county councils of Montgomery County and Prince George's County.

§22–113.

(a) (1) Subject to written approval of the county executives and county councils of Montgomery County and Prince George's County, the Commission, on behalf of the sanitary district, may:

(i) borrow money for any purpose for which bonds of the Commission are to be issued; and

(ii) issue negotiable bond anticipation notes of the Commission for any money borrowed in anticipation of the issuance of the bonds or of other revenues for capital expenditures.

(2) The aggregate amount of all bond anticipation notes outstanding under this section at any one time may not exceed $85,000,000.

(3) The aggregate amount of bond anticipation notes issued under this section in anticipation of the issuance of bonds that are subject to the 7% limitation under § 22–103(a) of this subtitle, together with the aggregate amount of bonds then outstanding that are subject to the limitation, may not exceed the 7% limitation.

(b) (1) Except as otherwise provided for emergent purposes under subsection (d) of this section, bond anticipation notes, including any renewals under item (ii) of this paragraph:

(i) shall mature within 5 years from the date the notes are first issued; or

(ii) if issued for a period of less than 5 years, may be renewed for successive periods not to exceed 1 year each.

(2) The notes shall be payable within 5 years after the date of the first issue.

(c) The notes shall:

(1) be issued in denominations determined by the Commission;

(2) bear interest as provided in § 22–102(d) of this subtitle;

(3) be payable at or before maturity; and

(4) be in the form and executed in the manner that the Commission determines.

(d) (1) (i) Except as provided in paragraph (2) of this subsection, bond anticipation notes shall be sold at public sale.

(ii) Renewal notes may be exchanged for outstanding notes on terms that the Commission determines.

(2) Subject to paragraph (3) of this subsection, the Commission may sell the notes at a negotiated sale if:

(i) the Commission determines that, for economic, engineering, or financial administration purposes, the requirements for the funds require the sale of the notes at an immediate or earlier time than is possible through the procedures of a public sale; and

(ii) the amount of bond anticipation notes sold at negotiated sale, issued or outstanding at any one time, does not exceed $10,000,000.

(3) Before concluding a negotiated sale, the Commission shall negotiate with at least two recognized banking institutions that purchase bond anticipation notes and obtain the terms most favorable in the Commission's interest.

(4) Bond anticipation notes sold at a negotiated sale:

(i) shall mature within a period not exceeding 180 days; and

(ii) may be renewed not more than one time for an additional period not to exceed 180 days.

(e) (1) Except as provided in paragraph (2) of this subsection, bond anticipation notes shall be paid from the proceeds of the bonds in anticipation of which they are issued.

(2) (i) The Commission may retire the notes from funds available for the payment of the bonds authorized by the Commission.

(ii) The amount of the bonds authorized shall be reduced by the amount of the retired notes.

(f) (1) Bond anticipation notes issued under this section are general obligations of the Commission.

(2) The full faith, credit, and taxing power of the Commission shall be pledged for the repayment of the notes.

(g) (1) Montgomery County and Prince George's County shall guarantee the bond anticipation notes as to payment of principal and interest substantially in the manner and form and with the effect provided for the guarantee of the construction bonds of the Commission issued under § 22–102(a)(1) of this subtitle.

(2) The Commission may waive the required guarantee.

(h) Bond anticipation notes issued under this section, including the interest on the notes, are forever exempt from taxation by the State and counties and municipalities in the State.

(i) The powers and authority granted under this section are in addition and supplemental to the powers and authority granted under any other law and shall be liberally construed to effectuate the purposes of this section.

§22–114.

(a) The Commission may borrow money and issue refunding bonds to refund bonds issued and outstanding by the Commission if:

(1) the county executives and county councils of Montgomery County and Prince George's County approve the plan for the issuance of refunding bonds; and

(2) the Commission determines that issuing refunding bonds will result in total savings in debt service costs, directly or through any debt restructuring.

(b) The Commission shall authorize the issuance of refunding bonds by resolution that may include:

(1) the date of the refunding bonds;

(2) the maturity dates of the refunding bonds, which may not exceed 40 years from the date of issue;

(3) the interest rates on the refunding bonds, which may not exceed 10% annually;

(4) the denominations of the refunding bonds;

(5) the form of the refunding bonds, which may be coupon or registered;

(6) registration or conversion privileges;

(7) the manner of executing the refunding bonds;

(8) the manner of payment at places in or outside of the State;

(9) terms for redemption before maturity;

(10) terms for replacement of mutilated, destroyed, stolen, or lost bonds; and

(11) any other terms, conditions, or covenants.

(c) Refunding bonds issued to refund outstanding bonds for which front foot benefit charges have been imposed shall mature on or before 1 year after the date set for the payment of the final installment of the front foot benefit charge.

(d) (1) Refunding bonds may be:

(i) exchanged for bonds being refunded;

(ii) sold at public sale; or

(iii) subject to paragraph (2) of this subsection, sold at a negotiated sale in an open meeting.

(2) Refunding bonds may be sold at a negotiated sale if the Commission determines:

(i) that a public sale would be impracticable to effectuate the purpose of the refunding bonds; and

(ii) the price, terms, and conditions are in the best interest of the Commission.

(e) (1) At least 45 days before the sale or exchange of any refunding bonds, the Commission shall deliver its plan on the issuance of the refunding bonds to the county executives and county councils of Montgomery County and Prince George's County.

(2) Except as provided in paragraph (3) of this subsection, the Commission may not sell or exchange the refunding bonds unless the plan under paragraph (1) of this subsection is approved by the county executives and county councils of Montgomery County and Prince George's County.

(3) (i) On or before 30 days after the delivery of the plan, the county executives and county councils of Montgomery County and Prince George's County shall approve or disapprove of the plan.

(ii) Failure of a county executive or county council of Montgomery County or Prince George's County to act within 30 days is deemed as approval of the plan by that county.

(4) The county executives and county councils of Montgomery County and Prince George's County may waive the time period requirements under this subsection.

(f) If an officer whose signature or facsimile signature appears on a refunding bond or coupon ceases to be an officer before the delivery of the refunding bond, the signature or facsimile is valid and sufficient as if the officer remained in office until delivery.

(g) Refunding bonds issued to refund bonds guaranteed as to payment of principal and interest by Montgomery County or Prince George's County may be guaranteed in the same manner and form as under § 22–104 of this subtitle.

(h) Refunding bonds authorized under this section are:

(1) in addition to any other bonds authorized under this subtitle; and

(2) included in computing the amount of bonds that may be issued under the 7% limitation under § 22–103 of this subtitle.

(i) Refunding bonds authorized under this section are forever exempt from taxation by the State and counties and municipalities in the State.

(j) The powers granted under this section are not subject to the provisions of any other law in conflict with the powers.

§22–115.

(a) The Commission may determine the amount of proceeds from the refunding bonds to deposit in a trust fund established in the name of the Commission with a trust company or other banking institution as trustee.

(b) (1) Money in the trust fund may be invested and reinvested in direct obligations of, or obligations the principal of which and the interest on which is guaranteed by, the United States.

(2) The Commission may provide for the use of money in the trust fund to pay all or part of the principal, interest, and redemption premium of the bonds being refunded and of the refunding bonds.

(3) The proceeds of the refunding bonds shall be invested and applied so that the principal, interest, and redemption premium on the bonds being refunded is paid in full on maturity, redemption, or interest payment dates.

(c) On or after the earliest redemption date, the Commission may call for redemption any bonds being refunded that are subject to redemption before the stated maturity dates.

(d) (1) The Commission may issue refunding bonds in one or more series.

(2) (i) The Commission shall determine the principal amount of each series required to achieve the purpose for the issuance of the refunding bonds.

(ii) The principal amount of the refunding bonds may be greater than the principal amount of bonds being refunded.

(e) In addition to or in lieu of any other money or security that the Commission may provide for the payment or security of the refunding bonds, the Commission may make all or part of the refunding bonds payable from money in and secured by the trust fund.

(f) (1) To retire and pay interest on refunding bonds issued under § 22–114 of this subtitle, each year the county councils of Montgomery County and Prince George's County shall impose a tax on the assessable property within the sanitary district sufficient to pay:

(i) the interest on the bonds as it becomes due; and

(ii) the principal and redemption premium, if any, of the bonds at their maturity or redemption.

(2) If the series of refunding bonds is issued to refund stormwater management bonds, the county council of the respective county provided with the proceeds of the bonds being refunded shall impose the tax.

(3) The counties shall determine, impose, collect, and pay the tax to the Commission as provided under § 22–106 of this subtitle.

(4) The provisions of § 22–106 of this subtitle apply to the refunding bonds issued under § 22–114 of this subtitle.

(5) The Commission shall make adequate provision for extending to its rate payers the benefit of savings in debt service costs derived through the issuance of any refunding bonds issued under § 22–114 of this subtitle.

(g) Any provision of law requiring the setting and collecting of front foot benefit charges for the payment of the principal of and the interest on the outstanding bonds being refunded shall apply to the payment of the refunding bonds issued under § 22–114 of this subtitle to refund outstanding bonds.

(h) The powers granted under this section are not subject to the provisions of any other law in conflict with the powers.

§22–201.

(a) This subtitle shall be liberally construed to carry out its purposes.

(b) The purpose of this subtitle is to authorize the Commission to issue bonds in a manner that provides flexibility without imposing additional debt burdens on the assessable tax base of the sanitary district, so as to yield overall savings to the residents of the sanitary district.

(c) This subtitle does not apply to debt issued by the Commission under Subtitle 1 of this title.

§22–202.

(a) The Commission may issue and sell revenue bonds to finance or refinance any of the Commission's costs of a project authorized under this division.

(b) (1) Revenue bonds may finance:

(i) necessary expenses of preparing, printing, selling, and issuing the bonds;

(ii) funding of reserves;

(iii) payment of interest related to financing a project in the amounts and for the period that the Commission determines; and

(iv) initial program development costs.

(2) Commission funding sources, other than revenue bond proceeds, may finance initial program development costs or other project costs only if those costs are reimbursed from project revenues.

(c) (1) The Commission may issue bonds under this subtitle only if the Commission authorizes the issuance by resolution.

(2) The resolution may authorize one or more officers of the Commission to determine or specify by bond order the matters that this subtitle requires to be determined or specified, or as may be necessary or advisable to accomplish the purposes of this subtitle.

(d) Bonds issued under this subtitle, and their principal, interest, and any premium:

(1) are limited obligations of the Commission;

(2) are payable solely from the revenues identified in the authorizing resolution or from other money made available for the payment; and

(3) do not constitute a pledge of the faith and credit of the Commission or of any entity with taxing power.

(e) (1) (i) Except as provided in subparagraph (ii) of this paragraph, bonds issued under this subtitle shall be dated, bear interest, and mature at the time that the Commission determines.

(ii) The bonds shall mature no later than 50 years after their date of issue.

(2) The bonds may bear interest at variable rates of interest, in a manner and amounts that the Commission determines.

(3) The bonds shall be payable in the manner and at the times and places that the Commission determines.

(4) The bonds may be made redeemable before maturity at the option of the Commission at a price and under terms and conditions that the Commission determines.

(5) (i) The Commission shall determine the forms and manner of execution of the bonds.

(ii) The bonds may be executed by facsimile signature.

(6) If an officer whose signature appears on a bond ceases to be an officer before the bond is delivered, the signature of the officer is valid and sufficient as if the officer had remained in office until delivery.

§22–203.

Bonds issued under this subtitle are negotiable instruments under the laws of the State.

§22–204.

(a) The Commission may sell bonds issued under this subtitle:

(1) at public or private sale; and

(2) in a manner and for a price that the Commission determines to be in the best interests of the Commission.

(b) Sections 19–205 and 19–206 of the Local Government Article do not apply to the issuance and sale of bonds authorized by this subtitle.

§22–205.

(a) The proceeds of each bond issuance under this subtitle shall be used solely for the projects for which the bonds were issued.

(b) The proceeds shall be distributed in the same manner and under any restrictions stated in:

(1) the authorizing resolution of the Commission; or

(2) the trust agreement securing the bonds.

(c) (1) If the proceeds of the bonds are less than the cost of the project for which the bonds were issued, by resolution, the Commission may issue and sell

additional bonds in the same manner as the earlier issue to fund the amount of the deficit.

(2) Unless otherwise provided in the authorizing resolution or in the trust agreement securing the bonds, the additional bonds shall be:

(i) considered to be of the same issue as the earlier issue; and

(ii) entitled to payment from the same funds as the earlier issue, without preference or priority of the earlier issue.

(d) If the proceeds of bonds issued under this subtitle exceed the cost of the project for which the bonds are issued, the surplus shall be used as the Commission determines.

§22–206.

As determined by the Commission, bonds issued under this subtitle may be secured by or made payable from:

(1) letters of credit;

(2) lines of credit;

(3) bond purchase agreements;

(4) bond insurance policies;

(5) guaranty agreements; and

(6) similar credit arrangements.

§22–207.

(a) The Commission may provide by resolution for the issuance of revenue refunding bonds to refund bonds issued under this subtitle.

(b) To the extent applicable, revenue refunding bonds issued under this section shall conform to the requirements of this subtitle.

§22–208.

Bonds issued under this subtitle are not subject to the limitations of §§ 22–102(b) and 22–1035 of this title.

§22–209.

(a) The Commission may enter into a trust agreement to secure bonds issued under this subtitle.

(b) The trustee under the trust agreement may be a bank or trust company that has the powers of a trust company in or outside the State.

(c) The trust agreement may pledge or assign all revenues from one or more projects as specified by the Commission.

(d) The trust agreement may provide for the protection and enforcement of the rights and remedies of the bondholders, including:

(1) covenants setting forth the duties of the Commission regarding:

(i) construction, acquisition, improvement, installation, maintenance, operation, repair, and insurance of a project; and

(ii) custody, safeguarding, and application of all money;

(2) the establishment and funding of reserve funds;

(3) requirements that a project be constructed and paid for under the supervision and approval of consulting engineers employed or designated by the Commission; and

(4) statements of the rights and remedies of the bondholders and of the trustee, which may restrict the individual right of action of bondholders.

§22–210.

(a) Bonds issued under this subtitle, including their interest and any profit from their sale or exchange, are exempt from taxation by the State and its counties and municipalities.

(b) If bonds are issued under this subtitle with the expectation that their interest may be excluded from the gross income of the bondholders, the Commission shall enter into all agreements and make all certifications necessary or advisable to show compliance with the applicable provisions of federal tax law.

§23–101.

(a) The Commission shall develop surveys, plans, specifications, and estimates for water supply and sanitary sewer systems in the portions of the sanitary district that the Commission considers necessary.

(b) The Commission shall divide the sanitary district into water or sanitary sewer districts that in the Commission's judgment:

(1) best serve the needs of the communities in the sanitary district; and

(2) promote the convenience and economy of the installation and operation of water supply and sanitary sewer systems.

(c) The Commission may proceed with construction that the Commission considers advisable in any district.

(d) If the Commission initiates construction without petition or request from an interested party, the Commission may give reasonable notice that the Commission considers advisable.

(e) (1) The Commission may extend its water supply or sewer systems into any area outside of the sanitary district that is contiguous to or in the vicinity of the sanitary district if the property owners of the area agree to the conditions imposed by the Commission.

(2) Except as provided in this division, the powers and authority in this subsection may not be restricted by any other general, special, or local law.

(f) The Commission may not install, operate, or exercise any authority over stormwater management in Montgomery County.

§23–102.

(a) A privately owned or municipally owned water supply or sanitary sewer system or part of a system, water main, sewer, water purification or sewage disposal plant, or connection with these facilities may not be constructed or installed, except as provided in this section.

(b) A municipality or the property owners or residents of a locality in the sanitary district may construct and operate a water supply or sanitary sewer system or part of a system at their own expense if the Commission decides that it is inexpedient or impracticable to build the system due to remoteness from the Commission's general system or for other reasons.

(c) (1) A system constructed in accordance with subsection (b) of this section shall be constructed under plans and specifications submitted to and approved by the Commission.

(2) The construction, maintenance, and operation of the system shall be under the supervision and general control of the Commission.

(d) All construction and operating records for the system, including cost records, shall be filed with the Commission.

(e) The Commission may take over the system or a part of the system, water main, sewer, water purification or sewage disposal plant, or connection with these facilities in the same manner as provided in § 23–103 of this subtitle.

(f) Except as provided in this division, the powers and authority in this section may not be restricted by any other general, special, or local law.

§23–103.

(a) The Commission may purchase a municipally or privately owned water supply or sewer system if the Commission:

(1) extends its general water supply or sewer system to the municipally or privately owned water supply or sewer system and is ready to connect with the system; or

(2) considers the purchase to be expedient, advisable, and proper for the adequate operation of the system under the Commission's jurisdiction.

(b) If the Commission and the owner of a municipally or privately owned water supply or sewer system fail to agree to the purchase price or conditions of purchase of the water or sewer system, the Commission may acquire the system by condemnation, as provided in this division.

§23–104.

(a) If a privately owned water or sewer system is the subject of a condemnation proceeding under this division, a jury in the proceeding shall determine the fair market value as provided for in § 12–105(b) of the Real Property Article.

(b) (1) If the Commission condemns a privately owned system, the Commission shall take the system free and clear of all debts and liens.

(2) (i) The Commission shall make a party defendant any person that has a recorded lien or encumbrance against the privately owned system.

(ii) The circuit court may determine the respective amounts due the defendants.

(c) After the payment into the court or to the proper parties:

(1) the Commission may take possession of, maintain, and operate the private system; and

(2) all properties along the line of any water main or sewer of the private system shall stand in the same relation, bear the same benefit assessment, and be subject to the same regulations and penalties as though the private system had been constructed and put into operation by the Commission under the provisions of this division.

(d) A building or premises properly connected with the acquired private system at the time of its purchase is not subject to the connection charge specified under Title 25, Subtitle 3 of this article.

(e) (1) If the Commission considers that a privately owned water or sewer system is unfit, in whole or in part, for incorporation with the Commission's system, the Commission shall:

(i) disregard the existence of the system or unfit part of the system; and

(ii) extend the Commission's system to serve the area served by the existing system or unfit part of the system.

(2) All of the provisions of this division relating to systems constructed by the Commission apply to an extension under paragraph (1) of this subsection.

§23–105.

(a) After the payment for the acquisition is made to the court or to the municipality:

(1) the Commission may take possession of, maintain, and operate a municipally owned water or sewer system; and

(2) all properties along the line of any water main or sewer of the municipal system shall stand in the same relation, bear the same benefit assessment, and be subject to the same regulations and penalties as though the municipal system had been constructed and put into operation by the Commission under the provisions of this division.

(b) A building or premises properly connected with the acquired municipal system at the time of its purchase is not subject to the connection charge specified under Title 26, Subtitle 3 of this article.

(c) If outstanding bonds exist for a municipal system acquired by the Commission:

(1) the municipality may use the amount paid by the Commission for the system for the purchase or redemption of any bond or debt that may be outstanding against the system; or

(2) the Commission, as a part of the compensation for the system, may assume the payment of any outstanding bond.

§23–201.

(a) (1) In this section the following words have the meanings indicated.

(2) "Authorization for service" means an application by a property owner or developer to the Commission for water or sewer service that requires the construction of subdivision lines.

(3) "Development" means a project for the construction of:

(i) two or more residential dwelling units; or

(ii) a commercial or industrial structure.

(4) "Health hazard" means an owner–occupied residential property with a failing well or septic system as certified by the State or a local health department.

(5) "Payment security" means security to guarantee payment to the utility contractor, subcontractors, and suppliers that provide labor, materials, or construction equipment for the construction of subdivision lines.

(6) "Performance security" means security to guarantee completion of the construction of subdivision lines.

(7) (i) "Subdivision lines" means the water and sewer pipelines or facilities necessary to provide service to a development, including service connections to individual lots or properties in a development.

(ii) "Subdivision lines" does not include pipelines or facilities that constitute major projects as defined in § 23–301 of this title.

(b) (1) Subject to paragraph (2) of this subsection, this section does not apply to:

(i) authorizations for service for which:

1. application was made with the Commission on or before June 30, 1999; and

2. the Commission entered into a contract for construction of subdivision lines with notice to proceed issued by the Commission to its contractor on or before June 30, 2001; or

(ii) authorizations for service for the relief of health hazards.

(2) Each part of a multipart authorization for service shall be considered a separate authorization under paragraph (1) of this subsection.

(c) Notwithstanding any other provision of law and except as provided in subsection (b) of this section, the owner or developer of a development in the sanitary district shall construct all subdivision lines for the development at the expense of the owner or developer.

(d) Before constructing subdivision lines, the owner or developer of a development shall enter into an agreement with the Commission that:

(1) requires the subdivision lines to be constructed under plans and specifications submitted to and approved by the Commission;

(2) requires the owner or developer to comply with all applicable laws and requirements for the construction of the subdivision lines;

(3) provides for the inspection of the subdivision lines by the Commission before the line is placed in service;

(4) requires the property owner or developer to provide:

(i) performance security payable to the Commission in an amount acceptable to the Commission, taking into account potential cost escalation; and

(ii) payment security payable to the Commission in an amount equal to the amount of the performance security; and

(5) provides that before the subdivision lines are placed in service, the property owner or developer shall provide the Commission with a release of liens, on a form acceptable to the Commission, signed by the utility contractor and notarized, stating that the utility contractor, subcontractors, and suppliers have been paid.

(e) Acceptable forms of performance security and payment security under subsection (d) of this section are:

(1) a certified check;

(2) a cash deposit;

(3) a certificate of deposit;

(4) an irrevocable letter of credit from a financial institution acceptable to the Commission and in a form acceptable to the Commission;

(5) a bond executed by a surety company authorized to do business in the State; or

(6) any other form of security acceptable to the Commission.

(f) (1) (i) A utility contractor, subcontractor, or supplier providing labor, materials, or equipment for the construction of the subdivision lines that has not been paid may file a claim against the payment security within 180 days after completion of construction of the subdivision lines under the procedure required in the payment security.

(ii) If a procedure is not specified in the payment security, the procedure shall be as established by regulations adopted by the Commission.

(2) The Commission may not release or reduce the amount of the payment security until:

(i) all claimants have been paid; or

(ii) 180 days have passed since completion of construction and no claims have been made.

§23–202.

(a) (1) If property abuts on a street or right–of–way in which a water main or sanitary sewer is installed, the Commission shall provide a service connection from the water main or sanitary sewer to the property line of the abutting lot.

(2) The service connection shall be constructed by and at the expense of the Commission and shall be paid for in accordance with this division.

(b) (1) When the Commission declares a water main or sewer complete, after notice, every abutting property owner may hook up spigots, hydrants, toilets, and waste drains with the water main or sewer, as appropriate, within the time set by the Commission.

(2) If the fixtures described in paragraph (1) of this subsection do not exist or if the Commission determines that they are improper or inadequate, the property owner shall install satisfactory equipment.

(c) (1) Any cesspool, sink drain, outhouse, or well that is polluted or a menace to health shall be abandoned and left in a way that it cannot be used or pose a risk to the public health.

(2) The Commission shall determine the disposition of these facilities.

(d) (1) After the construction or acquisition of a water main or sewer, the Commission may order a property owner or occupant who refuses to connect to the water main or sewer to hook up to the water main or sewer if:

(i) a condition exists that appears to be a menace to the health of the occupants of the property or the occupants of a nearby or adjoining property;

(ii) the property on which the condition exists abuts the water main or sewer;

(iii) the Commission gives the owner or occupant 10 days' notice and an opportunity to be heard; and

(iv) the Commission determines the condition to be a menace to the health of the occupants of the property or the occupants of a nearby or adjoining property.

(2) (i) If the Commission determines that a condition exists as provided in paragraph (1) of this subsection, the Commission shall pass an order that requires that the property hookup be made in not less than 30 days or more than 90 days of the issuance of the order.

(ii) The property owner or occupant may not refuse to comply with the order or violate any of the other provisions of this section.

(iii) As provided in the Administrative Procedure Act, the property owner or occupant may seek judicial review of the decision of the Commission.

(e) (1) In this subsection, "master meter" means a meter used to measure, for billing purposes, the total amount of water and sewer usage in a building, including the combined use from all individually leased or owned units and all common areas.

(2) This subsection applies only in Prince George's County.

(3) The Commission may not authorize the use of a master meter for water and sewer service in a residential multiple occupancy building that is constructed or converted to condominium or cooperative ownership.

(4) In the case of a residential multiple occupancy building in which the Commission has previously authorized the use of a master meter under this section, and that is intended to be converted to condominium or cooperative ownership, the conversion of ownership may not take effect until individual meters have been installed for each individual dwelling unit and for the common areas of the building.

§23–203.

(a) Except as provided in subsection (e) of this section, this section does not apply to streets, roads, alleys, sidewalks, or public property in the jurisdiction of Montgomery County.

(b) (1) The Commission shall make taps in installations of the Commission at a charge that the Commission considers reasonable.

(2) The Commission may construct and make water service connections of 2 inches or larger and charge for the connections at the actual cost to the Commission.

(c) The Commission may authorize the construction of service connections by a master plumber, who is registered in the sanitary district, under the supervision of the Commission.

(d) (1) If the Commission, by resolution, authorizes service connections to be made by a master plumber, under regulations and after issuance of a written permit by the Commission, the master plumber may enter on and cut into a street under the jurisdiction of a public authority to the same extent that the Commission may enter on and cut into the street.

(2) (i) The master plumber shall first post with the Commission an indemnity bond in an amount set by and with sureties approved by the Commission.

(ii) The bond shall indemnify the Commission and any State, county, or municipal authority having jurisdiction over the street against all loss, cost, or damage that may be caused by the master plumber's entering on and cutting into the street.

(iii) The master plumber shall deposit with the Commission in cash a sum set by the Commission to cover the cost of resurfacing the cut.

(3) (i) The only permit required shall be a permit issued by the Commission in accordance with this section.

(ii) The master plumber shall notify the authority having control of the street to be entered and cut of the time and nature of the work to be done.

(e) Before cutting into a street, road, alley, sidewalk, or public property under the jurisdiction of Montgomery County, a master plumber shall secure a permit from the county and pay a fee and comply with regulations established by the county.

(f) The Commission shall adopt regulations to implement this section.

§23–204.

The Commission may grant water or sewer service connections, hookups, or authorizations for service or otherwise extend water and sewer service to a new development in the Prince George's County portion of the sanitary district only if the

development is in conformance with adopted and approved plans, programs, and policies of the county or other regulations that the county may include in an adopted and approved comprehensive water and sewer plan, amendment, or revision.

§23–205. IN EFFECT

// EFFECTIVE UNTIL JUNE 30, 2034 PER CHAPTER 679 OF 2024 //

(a) (1) In this section the following words have the meanings indicated.

(2) "Fund" means the Connection Pipe Emergency Replacement Fund.

(3) (i) "Pipe" means a water or sewer service pipe connection located on a Commission customer's property that connects from the Commission's service connection to a customer's residence.

(ii) "Pipe" includes polybutylene pipes.

(4) "Program" means the Connection Pipe Emergency Replacement Loan Program.

(b) The Commission shall establish a Connection Pipe Emergency Replacement Loan Program.

(c) The purpose of the Program is to provide loans to residential customers to diagnose and finance the replacement of malfunctioning pipes.

(d) The Program shall include:

(1) eligibility requirements for participation in the Program, including eligibility requirements for:

(i) customers applying to receive a loan through the Program;

(ii) the type of connection pipe that is being installed to replace the existing connection pipe;

(iii) the type of malfunction and pipe replacement emergency that qualifies for the Program; and

(iv) the type of diagnostic action that qualifies for the Program;

(2) a requirement that a customer receive notification or have certification that there is an active leak in the pipe that will be replaced;

(3) loan terms and conditions, including an interest rate repayment schedule and an administrative processing fee;

(4) a requirement that the replacement of malfunctioning pipes or a diagnostic action taken under the Program be performed by a plumber licensed by the Commission; and

(5) a prohibition on the Commission replacing malfunctioning pipes under the Program.

(e) (1) The Program shall provide loans to customers on a first–come, first–served basis.

(2) A loan made under the Program may not exceed $10,000.

(3) A customer may not receive more than one loan at a time under the Program.

(f) (1) Subject to paragraph (3) of this subsection, the Program shall require a customer to repay a loan provided under the Program:

(i) through a separate charge on the customer's water and sewer bill; or

(ii) by another method determined by the Commission.

(2) The Commission may not set a charge greater than an amount that allows the Commission to recover the costs associated with:

(i) financing the loan; and

(ii) administering the Program.

(3) A person who acquires property subject to a charge under this section assumes the obligation to pay the charge.

(g) (1) (i) Subject to paragraph (4) of this subsection, a loan provided under the Program shall be a lien against the property on which a malfunctioning pipe has been replaced or a diagnostic action has been taken.

(ii) A lien under subparagraph (i) of this paragraph shall continue until the loan is paid in full to the Commission.

(2) The Commission shall be the sole holder of the lien established under paragraph (1) of this subsection.

(3) (i) The Commission shall record a lien established under this subsection in the land records of the county where the property is located.

(ii) A lien established under this subsection shall secure payment of a loan, including the principal, interest, late charges, cost of collection, and reasonable attorney's fees.

(iii) Enforcement of a lien established under this subsection shall be in accordance with the Maryland Contract Lien Act.

(4) A lien established under this subsection may not take priority over a lien, mortgage, deed of trust, or other security interest that is:

(i) already attached to the property at the time the lien established under this subsection is recorded; or

(ii) given to secure a loan to:

1. purchase the property subject to the lien established under this subsection; or

2. refinance a loan that is already attached to the property at the time the lien established under this subsection is recorded.

(5) The Program may not provide, or at any time have outstanding, more than $2,000,000 total in loans.

(h) The Commission shall include $200,000 annually in the Commission's budget for the Program for fiscal years 2020 through 2034.

(i) (1) There is a Connection Pipe Emergency Replacement Fund.

(2) The purpose of the Fund is to provide funding for the Program.

(3) Notwithstanding any other provision of law, the Fund shall be administered solely by the Commission or the Commission's designee.

(4) The Fund consists of:

(i) money appropriated by the Commission from ratepayer funds only;

(ii) any investment earnings of the Fund; and

(iii) any other money from any other source accepted for the benefit of the Fund.

(5) The Fund may be used only for:

(i) providing loans through the Program; and

(ii) the administration of the Program.

§23–301.

(a) In this subtitle the following words have the meanings indicated.

(b) (1) "Major project" means an extension, project, or program of water and sewer facilities.

(2) "Major project" includes:

(i) a sewer main at least 15 inches in diameter;

(ii) a water main at least 16 inches in diameter; and

(iii) a sewage or water pumping station, force main, and storage or other major facility.

(3) "Major project" does not include a sewer main or water main that:

(i) provides only local service;

(ii) is 2,000 feet or less; and

(iii) is built to avoid unnecessary and uneconomical duplication when a major project is constructed.

(c) "Program" means a 6–year projected program by the Commission of capital improvements for water and sewer facilities.

§23–302.

(a) In this subtitle, the requirements and responsibilities of the county executives and county councils or successor forms of governments shall be performed separately or jointly by the branches of the respective county governments as provided by charter or other law.

(b) The designation of a specific branch of county government is not intended to expand, limit, modify, or vary the powers and duties of the county executives and county councils of Montgomery County or Prince George's County.

§23–303.

A Program shall include:

(1) the major projects that the Commission determines may be required in each of the next 6 fiscal years:

(i) in the sanitary district; and

(ii) in geographical areas outside the sanitary district that the Commission determines are appropriate to include in the Program;

(2) a statement of the objectives and the relationship to the long–range development plans designated by each county for each major project;

(3) a projected construction schedule, an estimate of cost, and a statement of funding sources, including contributions that may be required for the construction of a major project;

(4) the information and documentation for each major project that the Commission is required to submit for the 6–year period covered by the Program under Title 9, Subtitle 5 of the Environment Article;

(5) the addition of a new major project and the deletion, modification, or rescheduling of a previously approved major project for which a construction contract has not been awarded or will not be awarded during the fiscal year in which the Program is being submitted;

(6) an indication, by major project, of the mains for which construction contributions have been made or committed and the amounts of contributions as of the date of the preparation of the Program;

(7) additional information for major projects for which contributions are made or committed before approval or amendment of the Program; and

(8) for each major project, as applicable:

(i) the estimated maximum diameter, length, and location of water and sewer mains;

(ii) the design capacity and approximate location of pumping stations;

(iii) the maximum population that could be served by each sewer construction item as the item is proposed to be designed;

(iv) the maximum area limits that could be served by gravity systems for each sewer system construction item and the area that each item is designed to serve, with the area limits set forth in a general narrative statement and on a map;

(v) the demonstrated need for each major project, including a presentation of appropriate facts justifying the proposed construction; and

(vi) the estimated cost of each construction item in the Program.

§23–304.

(a) Before October 1 of each year, the Commission shall prepare and submit a Program to the County Executive and County Council of Montgomery County and the County Executive of Prince George's County.

(b) In Montgomery County, the County Executive shall submit recommendations and suggested amendments about the Program to the County Council as an integral part of the comprehensive 6–year Capital Improvements Program required by the Montgomery County Charter.

(c) In Prince George's County, the County Executive shall submit the Program, together with comments, recommendations, and suggested amendments, to the County Council.

§23–305.

(a) Before final action on a Program is taken, public hearings shall be held on the Program.

(b) The public hearings may be conducted in conjunction with public hearings on the 6–year programs or capital budgets of Montgomery County, Prince George's County, or other agencies.

§23–306.

(a) The county councils of Montgomery County and Prince George's County shall approve, disapprove, or modify a Program.

(b) The county councils of Montgomery County and Prince George's County shall seek the advice and recommendation of the Maryland–National Capital Park and Planning Commission in reviewing a Program.

(c) The county councils of Montgomery County and Prince George's County may designate a water or sewer main for controlled or limited access for service to designated areas within the respective county.

(d) (1) A modification to a Program by the county council of Montgomery County or Prince George's County is not final until the modification is submitted to the Commission for written comment.

(2) The Commission has at least 30 days to comment on the modification.

§23–307.

(a) If the statement of objectives included in the Program as provided in § 23–303 of this subtitle declares that a major project to be constructed in whole or in part in one county is designed to provide services in whole or in substantial part to the other county, the major project may be disapproved with the concurrence of the county council of the county that is to receive the services.

(b) (1) Notwithstanding subsection (a) of this section, the county council of the county in which the major project is located may direct modifications in location or change the proposed year of construction if the modification or change will not prevent the services being available when needed.

(2) The county council's authority to direct modifications in the location of a major project described in subsection (a) of this section may be exercised to effect reasonable changes in the location of the major project by the county council of the county in which the major project is located when the major project is first approved as a part of a Program.

(c) After approval of a major project in a Program, the county council of the county in which the major project is located may make further modifications only if:

(1) the modifications do not result in substantial net additional costs or expenses to the Commission; or

(2) the county directing the modifications reimburses the Commission for substantial net additional costs or expenses.

§23–308.

In approving or modifying a Program, if Montgomery County or Prince George's County approves a major project for which money from the anticipated sources of funding shown by the Commission under § 23–303 of this subtitle is insufficient, the Commission is not obligated to undertake the major project unless the county approving the major project provides additional sources to fund the major project.

§23–309.

(a) If the Commission becomes legally liable to a third party as a direct result of a modification of a previous approval of a major project by Montgomery County or Prince George's County, the county directing the change is responsible for the liability that results from the change.

(b) The County Executive or County Council of Montgomery County or the County Executive of Prince George's County shall settle or release a claim for liability under subsection (a) of this section by:

(1) negotiating with the claimant; or

(2) paying the final judgment of a court award.

(c) In litigation resulting from a claim for liability under subsection (a) of this section, the County Executive or County Council of Montgomery County and the County Executive of Prince George's County may:

(1) intervene in a court proceeding before judgment; and

(2) interpose defenses available to the county or the Commission.

§23–310.

(a) If the Commission has made expenditures to a third party for services or property as part of an approved major project that is subsequently modified or removed by Montgomery County or Prince George's County so that the services or property are no longer necessary, the county directing the modification or removal shall reimburse the Commission for the amount of the expenditures.

(b) The Commission shall give Montgomery County or Prince George's County any right, title, and interest in an item for which reimbursement has been made.

§23–311.

Within 5 days after final action on a Program, the county councils of Montgomery County and Prince George's County shall submit to the Commission notification of final action, including:

(1) the details of changes or modifications; and

(2) evidence of compliance with specified requirements of this subtitle that may be applicable to the final action.

§23–312.

(a) The Commission shall:

(1) review each Program;

(2) revise each Program as required by a final action of the county councils of Montgomery County and Prince George's County; and

(3) adopt each Program before the beginning of the first fiscal year of that Program.

(b) The Commission's capital budget for the first fiscal year of each Program approved by the Commission shall provide money to begin the approved major projects for the first year of that Program.

(c) (1) A major project may not begin if the major project is not in conformity with the part of the Program applicable to that fiscal year unless the major project is included in the Program by an amendment to the Program.

(2) The amendment to the Program:

(i) may be proposed by the Commission or initiated by the county executive or county council of Montgomery County or Prince George's County;

(ii) on reasonable advance notice to the public, shall be subject to a public hearing held by the county council of the county that initiates the amendment or by both county councils if the amendment affects both counties; and

(iii) requires final action by the county council of each affected county.

(3) The county council of the affected county shall notify the Commission of the final action.

(4) The Commission shall adopt an amendment approved by final action by the county council of each affected county.

(d) (1) In this subsection, "material change" does not include the following items if service from a major project as constructed does not extend beyond the area approved for construction of a sewer project:

(i) a normal deviation from the most recent estimated construction costs;

(ii) a change in location caused by right–of–way acquisition problems;

(iii) a condition found in the field when actual construction plans are prepared; or

(iv) a modification of an estimated size or length of a construction item.

(2) A major project may not be constructed until an adopted Program is amended as to any material change.

§23–313.

(a) The Commission shall submit a final report, including construction cost figures, on completed major projects to the county executive and county council of Montgomery County or Prince George's County.

(b) (1) When the Commission submits a Program under § 23–304 of this subtitle, the Commission shall include a status report of all approved major projects that have not been completed as of the date that the Program is submitted.

(2) The report shall:

(i) identify the major project;

(ii) specify the dates of approval of the major project;

(iii) indicate the current status of the major project, including an estimate of the date of completion of construction;

(iv) indicate if the major project is the subject of a material change and any amendment that is required under § 23–312 of this subtitle; and

(v) for an approved major project in Montgomery County, indicate a change in the last estimated construction costs and a modification in location, size, and length of a construction item.

§23–314.

(a) Unless the county councils of Montgomery County and Prince George's County have approved the extension, the Commission:

(1) may not extend or approve construction of a sewer of any size or capacity to serve property in either county beyond the area that has been approved for service in a Program and the 10–year water and sewer plan required under § 9–503 of the Environment Article; or

(2) subject to subsection (b) of this section, may not extend a water line of any size or capacity beyond the approved terminal point of a major project.

(b) If the county councils of Montgomery County and Prince George's County have approved the extension, the Commission may extend a water line beyond the terminal point if:

(1) the extension of the water line would provide water service to a development that is within an approved sewer project area; or

(2) the affected county, through an appropriate county unit, has approved the installation of individual sewage disposal facilities.

(c) The Commission may construct an extension that requires approval under this section if:

(1) the proposed extension has been submitted for approval; and

(2) within 30 days after receipt of the proposed extension, the affected county has not notified the Commission that the extension should not be made.

§23–315.

(a) This section applies only in Prince George's County.

(b) Except as provided in subsection (c) of this section, the Commission may provide sanitary sewer service in drainage areas that are tributary to county–approved trunk sewers and county–approved pumping stations outside of the county–approved service areas.

(c) Property to which sanitary sewer service is provided under this section shall be developed in accordance with a master plan adopted by the Maryland–National Capital Park and Planning Commission and approved by the County Council of Prince George's County after submission to the County Executive of Prince George's County for review.

(d) Notwithstanding subsection (c) of this section, the Commission may provide sanitary sewer service to existing structures located in the drainage areas described in subsection (b) of this section.

§23–316.

(a) It is the intent of the General Assembly that the Commission, the Maryland–National Capital Park and Planning Commission, and the county executives and county councils of Montgomery County and Prince George's County cooperate to the fullest extent in seeking to attain maximum harmony of water and sanitary sewer construction programs with the other elements of orderly growth in Montgomery County and Prince George's County.

(b) The Commission, the Maryland–National Capital Park and Planning Commission, and the county executives and county councils of Montgomery County and Prince George's County are encouraged to:

(1) meet and discuss each Program; and

(2) exchange information and details necessary to achieve the coordination contemplated by this section for each Program.

(c) The Commission shall give additional information and details that the county executives and county councils of Montgomery County and Prince George's County request in connection with the consideration of a Program.

§24–101.

(a) (1) A person shall obtain a permit from the Commission before the person may engage in plumbing, waterworks, or sewer construction in a building or on private property in the sanitary district or areas of Prince George's County that are not in the sanitary district.

(2) The person shall pay to the Commission a reasonable permit fee set by the Commission.

(b) Work performed under a permit authorized by this section shall:

(1) conform to the Commission's regulations; and

(2) be subject to any inspection that the Commission considers necessary.

§24–102.

(a) (1) A person shall obtain a permit from the Commission before the person may construct a private or semipublic water supply or sewer system for the use of at least two buildings or premises in the sanitary district or areas of Prince George's County that are not in the sanitary district.

(2) The person shall pay to the Commission a reasonable permit fee.

(b) (1) The private or semipublic water supply or sewer system shall be installed, maintained, and operated under regulations that the Commission adopts.

(2) The owner or operator of the system shall pay to the Commission a reasonable supervision and inspection fee that the Commission sets.

(c) If an owner or operator of a private or semipublic water supply or sewer system fails or refuses to correct, maintain, or operate the system in compliance with the requirements of the Commission, the Commission may:

(1) make the correction or take over the operation of the system for the period necessary; and

(2) collect the costs for the correction or operation from the owner or operator.

§24–103.

(a) (1) A person shall obtain a permit from the Commission before the person may make a hookup with a water or sewer service line that the Commission constructs or maintains.

(2) A hookup shall be made under the conditions that the Commission authorizes.

(b) To prevent or eliminate leakage, loss of water, the unnecessary use of sewers, or other waste of water, the Commission may:

(1) at a reasonable time, enter a building or premises that has a connection with the water supply or sewer system under the jurisdiction of the Commission; and

(2) issue an order requiring a change in the plumbing, waterworks, or water or sewer connection that the Commission considers necessary.

§24–104.

(a) This section does not apply to:

(1) in Montgomery County:

(i) an apartment house with fewer than five dwelling units; or

(ii) a water supply or sewage collection and disposal system constructed:

1. to serve only a single building or group of buildings serving as a single farm unit or as a single commercial or industrial establishment;

2. by the county, an instrumentality of the county, or the City of Rockville; or

3. by a municipality, if the municipality owned and operated the system on June 1, 1965; and

(2) in Prince George's County, a water supply or sewage collection and disposal system:

(i) constructed to serve only a single family residence or a single building; or

(ii) owned and operated by a municipality on January 1, 1959.

(b) (1) This subsection does not apply to Calvert Manor.

(2) Subject to subsection (c) of this section, a person shall obtain a permit from the Commission before the person may construct, alter, extend, or operate a water supply or sewage collection and disposal system outside the sanitary district in Montgomery County or Prince George's County.

(c) (1) The Commission may not issue a permit under subsection (b) of this section until the Commission approves:

(i) complete plans and specifications for the construction, alteration, extension, or operation of the water supply or sewage collection and disposal system; and

(ii) any other information that the Commission requires.

(2) The Commission shall:

(i) during construction, inspect all projects for which the permit was issued; and

(ii) require the construction to conform to the approved plans and specifications.

(3) The Commission may charge a reasonable permit fee not exceeding 6% of the estimated construction cost for a project described in this section.

(d) (1) A person holding a permit under subsection (b) of this section shall submit to the Commission:

(i) any material change in the plans and specifications; and

(ii) a statement of the reasons for the change.

(2) The Commission shall approve and issue a permit for a material change before the person may include the change in the actual construction.

(e) A water supply or sewage collection and disposal system, including oxidation ponds and sewage lagoons, for which a permit is required under this section shall be installed, maintained, and operated under regulations that the Commission adopts.

(f) The Commission shall:

(1) inspect the operations of any water supply or sewage collection and disposal system authorized under this section;

(2) require the owners or operators of the system to maintain and operate the system in compliance with the Commission's reasonable requirements and with regard to public health, safety, and comfort;

(3) set and collect from the owners or operators of the system a reasonable fee for the supervision and inspection of the system; and

(4) if the owner or operator fails or refuses to correct, maintain, or operate the system in compliance with the Commission's requirements:

(i) make the correction or take over the operation of the system for any period necessary; and

(ii) collect the costs for the correction or operation from the owner or operator.

(g) The Commission:

(1) shall adjust its inspection fees accordingly if a municipality in Montgomery County or Prince George's County:

(i) owns or operates a water supply or sewage collection and disposal system;

(ii) performs or has performed bacteriological and chemical analyses on the system by qualified personnel, as approved by the Department of the Environment and the Commission; and

(iii) files with the Commission a monthly report of the analyses showing that satisfactory operating conditions exist in the system; and

(2) is not required to duplicate an analysis.

(h) (1) If a water or sewage treatment facility is constructed under a Commission permit and operates subject to inspection by the Department of the Environment, the Commission is not required to duplicate the operational inspection functions that the Department of the Environment conducts.

(2) The Commission may eliminate or reduce its operation and inspection fee in proportion to the eliminated inspection activities.

(3) All other requirements of the Commission permit for the facility shall be applicable.

(i) (1) When a water supply or sewage collection and disposal system authorized under this section is completed, the person constructing the system shall file with the Commission as a permanent record a certified copy of the plans in full, showing the work as built.

(2) The record shall include the information and be in the form that the Commission requires.

(j) A person found to have violated this section is not relieved from the requirement to secure and pay for a permit and comply with all other applicable provisions of this section.

§24–105.

(a) (1) In those parts of Prince George's County that are not in the sanitary district, the Commission's plumbing regulations:

(i) apply to plumbing installations that began on or after June 1, 1965; but

(ii) do not apply to plumbing installations that existed on July 1, 1965.

(2) (i) The owner of the property where plumbing installations existed on July 1, 1965, is not required to change the plumbing until water or sewer service is obtained from a Commission system.

(ii) If water or sewer service is obtained from a Commission system, this section and the Commission's regulations apply to the property and the plumbing as if the property were in the sanitary district.

(b) (1) The Commission may enter into an agreement with Prince George's County under which the county will issue the necessary permit and perform

the necessary inspection for and in the name of the Commission in those areas that are not in the sanitary district, if the agreement provides that the plumbing regulations of the Commission will be applied.

(2) This subsection or an agreement entered into under this subsection does not affect the power of the Commission:

(i) to adopt regulations to install plumbing in Prince George's County as the Commission considers necessary for the public health; or

(ii) to regulate public and semipublic water supply and sewer systems under this section and § 24–102 of this subtitle.

§24–106.

(a) (1) Subject to § 12–305 of the Business Occupations and Professions Article, only the Commission may issue licenses to persons to work in the plumbing business in areas of Montgomery County or Prince George's County under the jurisdiction of the Commission.

(2) License fees may not exceed the fees set in the Maryland Plumbing Act.

(3) The Commission shall exercise the authority of the State Board of Plumbing in areas under the jurisdiction of the Commission.

(b) (1) A person holding a valid master plumber/gasfitter license or a journeyman plumber/gasfitter license issued by the Commission is entitled to an equivalent license issued by the State Board of Plumbing without examination on presentation of:

(i) the license issued by the Commission; and

(ii) a notarized statement of good standing issued by the Commission.

(2) A person holding a valid master plumber/gasfitter license or a journeyman plumber/gasfitter license issued by the State Board of Plumbing is entitled to an equivalent license issued by the Commission without examination on presentation of the license issued by the State Board of Plumbing.

(c) A license issued to a master plumber/gasfitter or a journeyman plumber/gasfitter in good standing under a reciprocity arrangement by the State Board of Plumbing and the Commission before July 1, 1978, remains in force.

§24–107.

Any new or replacement piping that is buried or installed for the purpose of connecting a building to a water supply system or a sewerage system shall comply with the requirements of § 12–129 of this article.

§24–201.

(a) (1) In this section, "sewer cleaning" means the cleaning or clearing of and the removal of stoppages or obstructions in sanitary sewer lines, pipes, and fixtures.

(2) "Sewer cleaning" does not include any installation, maintenance, extension, removal, or alteration of any pipe, sanitary fixture, or other sewer apparatus.

(b) This section may not be construed to:

(1) require a person to have a sewer cleaner's license to clean a sewer on the person's own property;

(2) prevent a person from cleaning a sewer on the person's own property; or

(3) apply to or prohibit the cleaning by any person of a sewer or sanitary fixture of any dwelling, commercial or industrial establishment, or premises owned or operated by the person.

(c) The Commission shall adopt and enforce regulations governing sewer cleaning in sanitary sewer lines, pipes, and fixtures connected to the Commission's sanitary sewer system.

(d) (1) (i) To qualify for a sewer cleaner's license, a person need not be a master plumber.

(ii) A sewer cleaner's license does not authorize the licensee to engage in the plumbing business other than sewer cleaning.

(2) The Commission:

(i) shall require that a person other than a licensed master plumber who is engaged in or represents the person to the public as engaged in sewer cleaning be licensed by the Commission;

(ii) may require a bond of the licensee to insure compliance with and adherence to the regulations adopted by the Commission;

(iii) may establish qualifications and examine applicants concerning their competency and qualifications for a license under this section; and

(iv) may require a reasonable fee for the issuance and renewal of a license in an amount not more than one–half of the fee charged for a master plumber's license.

§24–202.

(a) Within 24 hours of the discovery of a leak in a sanitary sewer line, pipe, or fixture that is connected to the sanitary sewer system of the Commission, the Commission shall:

(1) notify the county and any municipal corporation in which the sewage leak is located about:

(i) the sewage leak; and

(ii) the Commission's intended action concerning the sewage leak; and

(2) include the following on the Commission's website:

(i) notice to the general public about the sewage leak; and

(ii) the phone number for obtaining additional information from the Commission.

(b) The Commission shall adopt regulations to implement this section.

§24–203.

(a) In this section, "public access point" includes a parking lot, playground, picnic area, boat launching ramp, or park.

(b) Within 24 hours after a leak is reported, the Commission shall post warning signs at each public access point to a waterway that becomes contaminated by a leak in a sanitary sewer line, pipe, or fixture that is connected to the sanitary sewer system of the Commission.

(c) A warning sign posted under this section shall include:

(1) the source and date of discovery of the leak; and

(2) the contact information, including a telephone number, of the Commission for members of the general public to use for obtaining additional information.

(d) The Commission:

(1) shall post the warning signs downstream from the leak in accordance with regulations adopted by the Commission; and

(2) is not required to post any warning sign upstream from a leak.

(e) The Commission shall adopt regulations to implement this section, including regulations concerning:

(1) the minimum distance from the source of a leak within which warning signs must be posted; and

(2) the form and content of the warning signs.

§25–101.

(a) In this section, "industrial user" means:

(1) an industry identified in the category "Division D – Manufacturing" of the North American Industry Classification System developed by the United States Office of Management and Budget; or

(2) any industry in another class of significant waste producers that the Commission establishes by regulation.

(b) Notwithstanding any other provision of this subtitle or Subtitles 3 through 5 of this title that requires a regulation, rate, or charge to be uniform throughout the sanitary district, if the Commission determines that in any area of the sanitary district the conditions for service from any of its systems, including the cost of instituting and maintaining the service, are substantially different from the conditions for service generally in the sanitary district, the Commission may define the area as a subdistrict and adopt a different regulation, rate, or charge to apply in that subdistrict.

(c) Notwithstanding any other provision of this subtitle or Subtitles 3 through 5 of this title that requires a regulation, rate, or charge to be uniform throughout the sanitary district, if the Commission determines that conditions for service from any of its systems, including the cost of maintaining and operating the systems, to a property occupied by an industrial user are substantially different from the conditions for service generally in the sanitary district, the Commission may adopt regulations and set higher rates or charges or adopt more restrictive usage regulations for industrial users.

(d) Before adopting any different regulation, rate, or charge under this section, the Commission shall:

(1) publish notice of the proposed modification in at least one newspaper of general circulation in each county of the sanitary district; and

(2) hold a public hearing on the necessity or advisability of a modification of the regulation, rate, or charge.

§25–102.

Except as provided in Subtitle 2 of this title, any law or regulation that applies in the sanitary district shall apply to any property for which the front foot benefit charge or ad valorem tax is suspended or exempted.

§25–103.

(a) The intent of this section:

(1) is to declare the effect of the Acts of the General Assembly that have added area or property to the sanitary district on the conditions provided in this section; and

(2) is not to amend any of the conditions established by these Acts.

(b) Until the Commission begins, extends, or acquires a water or sanitary sewer system in an area or property added to the sanitary district and makes water or sewer service available to the properties in the area:

(1) the Commission may not seek the imposition of an ad valorem tax on that area or property; and

(2) the area or property added to the sanitary district is included in the sanitary district for all purposes of this division, except as a taxing district.

§25–104.

If the Commission determines that it is necessary or advisable to modify an existing rate, charge, or assessment, the Commission shall:

(1) publish notice of the proposed modification in at least one newspaper of general circulation in each county of the sanitary district; and

(2) hold a public hearing on the necessity or advisability of the proposed modification.

§25–105.

(a) (1) An appeal to the Public Service Commission of the reasonableness of any rate, charge, or assessment of the Commission may be taken by:

(i) an individual who has a financial interest in the appeal; or

(ii) the county council of Montgomery County or Prince George's County.

(2) Under regulations of the Public Service Commission, on appeal under paragraph (1) of this subsection, the Public Service Commission shall determine the reasonableness of the rate, charge, or assessment of the Commission.

(b) An appeal under this section shall be taken by filing a written complaint within 30 days after the date on which the Commission set the rate or fixed the charge or assessment.

§25–106.

(a) Except for assessments and benefit charges authorized by Subtitle 2 of this title, this section applies to any fee or charge imposed by the Commission.

(b) (1) A person may file a written claim with the Commission, in a form and containing the information and supporting documents required by the Commission, for a refund of the amount of a fee or charge the person paid to the Commission that exceeds the amount that is properly and legally payable.

(2) If the property for which the fee or charge was paid has been transferred to a new owner after the payment, the new owner may file the claim for the refund.

(c) (1) On the receipt of a claim for a refund under subsection (b) of this section, the Commission shall investigate the merits of the claim.

(2) On the request of the claimant, the Commission, or the Commission's designee, shall hold a hearing on the claim.

(3) A claim shall be disallowed unless it is filed within 3 years after the date of the payment for which the refund is requested.

(4) The Commission shall pay interest on any amount refunded under this section, calculated at the rate of 6% per year, starting 180 days from the date the claim was made.

(d) If the Commission fails to reach a final decision on a claim within 180 days after the date the claim is filed, the failure shall be deemed a final rejection of the claim.

(e) Within 30 days after the date of final action by the Commission on a claim for a refund filed under subsection (b) of this section, a petition for judicial review may be filed with the circuit court as provided in Title 7, Chapter 200 of the Maryland Rules.

(f) Notwithstanding any other provision of this section, the Commission may refund a payment that the Commission determines was paid in excess of the amount that was properly and legally payable, whether or not the person who made the payment files a claim for a refund.

§25–201.

In this subtitle, "sewer" means a sanitary sewer.

§25–202.

The construction, acquisition, replacement, or enlargement of, or the installation of a service connection to, a water main or sewer benefits each property that abuts on, is connected to, or is served by the water main or sewer.

§25–203.

(a) To impose a benefit charge for the construction of a water supply or sewer system, the Commission shall classify each property that abuts on a street, road, lane, alley, right–of–way, or easement in which a water main or sewer line is to be laid as:

(1) agricultural;

(2) industrial or business;

(3) institutional;

(4) multi–unit business;

(5) multi–unit residential;

(6) residential subdivision; or

(7) small acreage.

(b) The classification of a property by the Commission is final, subject only to revision:

(1) at a hearing under § 25–204(a) of this subtitle; or

(2) by the Commission if the use of the property changes.

§25–204.

(a) (1) When construction begins or within 12 months after completion of a water supply or sewer project, the Commission shall:

(i) in accordance with a classification established under § 25–203 of this subtitle, impose a benefit charge on each property that abuts on the water main or sewer; and

(ii) notify each property owner in writing of:

1. the classification of the owner's property;

2. the benefit charge imposed on the property; and

3. the time and place of a hearing to contest the imposition of the charge.

(2) The Commission may deliver the notice required under this subsection by:

(i) mailing the notice to the last known address of the property owner;

(ii) giving the notice in person to an adult occupying the property; or

(iii) if the property is vacant or unimproved, posting the notice on the property.

(b) (1) For each class of property, the Commission shall impose a benefit charge for water supply or sewer construction, or both, that is based on:

(i) the approximate cost of construction as an integral part of the whole system; and

(ii) 1. the number of front feet abutting on the street, road, lane, alley, right–of–way, or easement in which the water main or sewer is placed; or

2. for multi–unit classes, the number of units in or on the property that abut on the water main or sewer.

(2) In accordance with paragraph (1) of this subsection and subject to paragraph (3) of this subsection, in imposing a front foot benefit charge the Commission:

(i) for an irregularly shaped lot that abuts on a street, road, lane, alley, right–of–way, or easement in which there is or is being constructed a water main or sewer, shall use a front footage the Commission considers reasonable and fair;

(ii) for all the lots in a block owned by the same property owner and appurtenant to a residence, may use a continuous front footage for all the lots regardless of the streets on which the lots face;

(iii) for a lot with a front and rear on separate streets, may use a front footage on both the front and rear; and

(iv) for a corner lot of less than 2 acres in the residential subdivision classification:

1. may not use a front footage on more than one side unless the corner lot abuts on two parallel streets; and

2. if the corner lot abuts on two parallel streets, shall use a front footage that is reasonable and fair, taking into consideration the front footage toward which the building on the lot would naturally face.

(3) The Commission may impose a front foot benefit charge on the full front footage for a lot described in paragraph (2) of this subsection even if a water main or sewer does not extend along the full length of a boundary.

(c) The benefit charge shall be:

(1) unless otherwise provided in this subtitle, uniform for each classification of property in the sanitary district for any 1 year;

(2) determined by the Commission as costs and conditions require; and

(3) imposed once a year to begin on the January 1 or July 1 after the date of its imposition and may not be increased in that year.

(d) (1) Beginning when the Commission imposes a benefit charge for a property, the Commission shall require the property owner to pay the benefit charge annually for a period of years equal to the period of maturity of the bonds the proceeds of which financed the construction of the water main or sewer.

(2) If a property of the Housing Opportunities Commission of Montgomery County is subject to a benefit charge under this subtitle, the benefit charge shall be paid in the same manner as by a private property owner.

(e) Each benefit charge imposed under this subtitle is a lien against the property that continues until the benefit charge is paid and the account is extinguished in accordance with this subtitle.

§25–205.

(a) (1) The Commission may not impose a front foot benefit charge on:

(i) property owned by the State, a county, or a municipality;

(ii) property in the sanitary district that is connected to or authorized by the Commission to be connected to a water or sewer system operated by:

1. a municipality; or

2. a water or sewer company under the jurisdiction of the Department of the Environment;

(iii) property owned by a regularly organized volunteer fire department that is used for public purposes; or

(iv) subject to paragraph (2) of this subsection, property classified as agricultural that is actually used for farming purposes, unless a connection is made to a water main or sewer running through or adjacent to the property.

(2) The Commission may impose a reasonable front foot benefit charge on property classified as agricultural, which may not exceed the charge for 300 feet of front footage.

(b) The Commission may suspend the imposition and collection of a front foot benefit charge:

(1) with respect to a sewer line, for property otherwise subject to a front foot benefit charge that the Commission determines cannot obtain service from the sewer pipe on which the benefit charge would be based;

(2) for construction of a water main if the owner of the property that is otherwise subject to the benefit charge is not permitted to connect to the water main because of a finding:

(i) by the Commission that there is no sewer and the extension of an improved sewer system is not reasonably feasible; and

(ii) by a county health department that a septic system would not be approved for the disposal of the water for which the connection is requested; or

(3) if the property that is otherwise subject to the front foot benefit charge for a water main or sewer has a preexisting residential dwelling that is served by a well or septic system, until the property owner requests service from the water main or sewer.

(c) (1) If a property is exempt from front foot benefit charges or if the Commission has suspended front foot benefit charges for a property and the property is no longer eligible for the exemption or suspension, the Commission shall:

(i) classify the property in accordance with § 25–203 of this subtitle; and

(ii) impose a front foot benefit charge at a rate and for a period of time equal to that of property that was originally classified or for which the Commission imposed benefit charges in the year of the suspension.

(2) The Commission shall use money from front foot benefit charges imposed on property under paragraph (1) of this subsection to:

(i) amortize bonds issued to construct water mains and sewers for which benefit charges were imposed under this subtitle; or

(ii) construct other water mains and sewers for which benefit charges are imposed.

§25–206.

(a) This section applies only to a property owner:

(1) whose property does not abut a water main or sewer; and

(2) who has not previously paid a benefit charge for the construction of the water main or sewer.

(b) The Commission:

(1) shall allow a property owner to connect to a nonabutting water main or sewer;

(2) shall classify the property and impose a front foot benefit charge to be paid by the property owner at the rate and for the same number of years as though the property abutted on a water main or sewer constructed in the year in which the connection is made;

(3) when the connection is made, shall place the property owner in the same position as to all charges, rates, and benefits as if the property abutted on a newly constructed water main or sewer;

(4) if a water main or sewer abutting on the property is subsequently constructed, may require the property owner to connect to the abutting line and discontinue service from the nonabutting line; or

(5) while the property is in the same classification as when the nonabutting connection was made, shall allow the prior imposition of a front foot benefit charge to stand and may not impose a front foot benefit charge for the new abutting water main or sewer.

§25–207.

(a) In this section, "cost of construction" includes the cost of connecting a water main or sewer to the Commission system.

(b) If a property owner applies for a water main or sewer in an area in which the Commission determines service is not economically feasible unless the applicant makes a substantial contribution to the cost of construction of the water main or sewer, the Commission may classify the applicant's property together with adjacent or adjoining properties that could be readily served by the construction required by the applicant as a remote area.

(c) The Commission may construct the water main or sewer after:

(1) approving the application;

(2) receiving payment from the applicant of the contribution necessary for the cost of construction; and

(3) imposing the required front foot benefit charge.

(d) (1) The Commission may contract with the applicant at the time of the contribution to refund part or all of the contribution from any front foot benefit charges imposed on the property for the water main or sewer subsequently constructed by the Commission and served through the lines of the applicant in the remote area.

(2) The Commission shall determine the proportion of the contribution to be refunded and the maximum time of repayment, not to exceed 10 years.

§25–208.

When the Commission acquires an existing water or sewer system other than a municipal system, the Commission may impose a front foot benefit charge less than the uniform front foot benefit charge required in § 25–204 of this subtitle if:

(1) the construction cost of the system has been added, wholly or partly, to the purchase price of the property that abuts on the system; and

(2) the addition of the construction cost is a factor in the cost of the system to the Commission.

§25–209.

(a) A water or sewer connection benefit charge imposed by the Commission under this section is in addition to a benefit charge imposed under any other section of this subtitle.

(b) (1) (i) When a benefit charge or portion of a benefit charge for a water main or sewer connection is made payable on an installment basis as provided in § 25–304(b) of this title, the deferred amount and interest shall be paid by an annual benefit charge in an amount and for the period of years necessary to amortize the account.

(ii) Property subject to a benefit charge imposed under this section is subject to the benefit charge until payments have amortized the charge, including accrued interest.

(2) The Commission shall allow a property owner subject to a benefit charge for the deferred portion of a connection benefit charge to extinguish the account by paying the principal and interest due up to the time of payment.

(c) If a federal, State, county, or other governmental unit or municipality acquires property for public use that is subject to a benefit charge under this section, the benefit charge shall be paid and extinguished as provided in § 25–212 of this subtitle.

(d) A benefit charge imposed under this section shall be collected as provided in § 25–214 of this subtitle.

(e) To implement this section, the Commission may:

(1) include in the sale of bonds the cost of making service connections that are paid on an installment basis; and

(2) use any funds obtained from the sale.

§25–210.

(a) (1) When the Commission replaces or enlarges a water main or sewer to provide increased water or sewer service capability for abutting or connected property because of a change in the use or zoning classification of the property, a benefit charge for the construction of the replacement or enlarged system shall be:

(i) imposed as provided in § 25–204 of this subtitle;

(ii) collected as provided in § 25–214 of this subtitle; and

(iii) redeemed as provided in § 25–211 of this subtitle.

(2) Any unpaid portion of the initial benefit charge imposed for the original construction of the water main or sewer shall be included in the new benefit charge as an incremental charge to the single resulting benefit charge for the enlarged system only for the remaining years of the initial benefit charge.

(b) The Commission may not impose an additional benefit charge under subsection (a) of this section for a property in the residential subdivision class that abuts on an enlarged water main or sewer and that is subject to, or was subject to and paid, a benefit charge for water main or sewer construction until the classification of the property is changed because of a change in use or zoning classification requested by the property owner.

§25–211.

(a) (1) For purposes of this section, the annual benefit charge for a property shall be calculated at a sum:

(i) equal to the base rate applied to the classification for the property as it is used, disregarding any allowance for excess; but

(ii) not less than the base rate applied to property in the residential subdivision classification.

(2) At any time, a benefit charge may be extinguished or redeemed by payment to the Commission of a sum equal to:

(i) the annual benefit charge multiplied by the number of years yet to run on the bonds that financed the construction of the water main or sewer on which the benefit charge was based; and

(ii) less the interest calculated at the rate of interest on the bonds that financed the construction of the water main or sewer on which the benefit charge is based.

(b) Notwithstanding subsection (a) of this section, if a benefit charge is paid and redeemed because the property is acquired by the State, a county, or other governmental unit under any law that requires redemption, the payment to the Commission:

(1) shall be the capitalized amount of the actual benefit charge; but

(2) may not be less than an amount calculated as if the property were in the small acreage classification, with the redemption amount calculated as provided in this section.

(c) (1) On receiving a sum from the extinguishment or redemption of one or more front foot benefit charges, the Commission:

(i) shall purchase and cancel one or more bonds from the series of bonds issued for the construction that was the basis of the front foot benefit charge; or

(ii) may invest or use the sum to:

1. construct other water mains and sewers for which benefit charges are imposed; or

2. amortize bonds issued for the construction of water mains and sewers for which front foot benefit charges are imposed under this subtitle.

(2) The Commission may make up a deficiency in the purchase of a bond or pay a premium from any available surplus funds.

(3) The extinguishment or redemption of a benefit charge is conditional until the last year of maturity of the bonds from which proceeds the water mains or sewers were constructed.

(4) If, after extinguishment or redemption, the use of the property changes to another classification that would yield a greater benefit charge than that used to calculate the sum to extinguish or redeem the benefit charge, the Commission may:

(i) reclassify the property;

(ii) calculate a benefit charge to give credit for the sum paid for the extinguishment or redemption; and

(iii) reimpose the benefit charge for the remaining number of years until the bonds mature.

§25–212.

(a) Except as provided for the Housing Opportunities Commission of Montgomery County under § 25–204(d)(2) of this subtitle, when the State or a county

or municipality, or a unit of the State or a county, acquires property for public use that is subject to a benefit charge imposed under this subtitle, the benefit charge shall be paid and extinguished by payment to the Commission of a sum calculated in accordance with § 25–211 of this subtitle.

(b) When property is acquired without eminent domain, the Commission shall be paid the amount necessary to extinguish the benefit charge before the deed evidencing the transfer may be recorded in the land records of the county in which the property is located.

(c) When property is acquired by eminent domain:

(1) the Commission shall be named a party to the eminent domain proceedings and the jury shall make a separate award to the Commission of the amount necessary to extinguish the benefit charge; or

(2) the condemning authority shall pay the Commission the amount necessary to extinguish the benefit charge at the same time the condemning authority pays the amount awarded to the property owner if:

(i) by oversight or mistake, the Commission is not named a party to the proceedings; or

(ii) the jury's inquisition does not specify a separate award for the amount necessary to pay the benefit charge.

(d) If the Housing Opportunities Commission of Montgomery County allows a benefit charge to become delinquent:

(1) by the first month of the next fiscal year, the Montgomery County Council shall authorize and appropriate sufficient funds to pay the delinquent benefit charge and all penalties and interest on the charge; and

(2) the Montgomery County Executive shall pay the appropriated funds to the Commission promptly.

§25–213.

(a) This section applies to:

(1) an omission or mistake previously made by the Commission; or

(2) a judgment or decree previously rendered on a property if front foot benefit charge payments have not been made on the property.

(b) (1) When the Commission discovers an omission or mistake or within a reasonable time after a court renders a judgment or decree, the Commission may impose a front foot benefit charge at a rate and in a classification that it could have imposed originally or that a court orders, including any increases applied to the project of which the property is a part, if:

(i) the Commission discovers that property subject to a front foot benefit charge:

1. mistakenly has not had a front foot benefit charge imposed;

2. has had the charge imposed but was listed in the wrong name; or

3. has had the charge imposed under an incorrect description; or

(ii) a property owner did not receive notice as required by § 25–204 of this subtitle; or

(iii) the court set aside the service of notice by judgment or decree.

(2) The front foot benefit charge imposed under this section shall run for the period of years the benefit charge would have run if it had been imposed at the proper time or in the proper manner.

§25–214.

(a) This section applies to the collection of benefit charges for the Commission by the directors of finance of Prince George's County and Montgomery County or by other tax collecting authorities in those counties.

(b) Each year, for 30 days before the collection of taxes begins in Montgomery County and Prince George's County, the Commission shall have access to the records of the treasury division in each county's department or office of finance to inform each county:

(1) regarding which properties or property owners are subject to a benefit charge and the annual benefit charge imposed on the property;

(2) regarding each property on which the Commission has imposed a benefit charge that was not subject to State or county taxes; and

(3) of the total benefit charge imposed for all properties in the county.

(c) (1) (i) All laws relating to the collection of county taxes apply to the collection of a benefit charge.

(ii) A benefit charge:

1. for purposes of collection, shall be treated as a county tax;

2. shall bear the same interest and penalties as a county tax; and

3. shall be advertised with, and in the same manner as, a county tax.

(2) The director of finance shall collect a benefit charge in accordance with this section.

(3) The director of finance:

(i) shall refer a protest, objection, or complaint concerning a benefit charge to the Commission; and

(ii) may not refund, change, or amend a benefit charge.

(4) A property redeemed from a county tax sale or a property sold by the county council of Montgomery County or Prince George's County after a final tax sale may not be redeemed or sold except on payment of the benefit charge due on the property.

(5) A property subject to a delinquent benefit charge shall be sold for the delinquent benefit charge at the same time and in the same manner as property sold for delinquent county taxes.

(d) (1) The director of finance shall:

(i) print on the tax bill:

"To Sanitary Commission benefit charge $....";

(ii) provide a space on the tax bill for the interest or penalty;

(iii) make the proper entries on each tax bill mailed; and

(iv) collect the amount specified on the bill for the benefit charge with the State and county taxes.

(2) In Montgomery County, each property tax bill shall list separately any deferred water main or sewer connection benefit charges applicable to an assessed property.

(3) Beginning June 1, 2013, in Prince George's County, each property tax bill shall contain a notice of the number of annual payments remaining on the assessed property for the front foot benefit charge.

(e) (1) On or before the 10th day of each month, the director of finance shall pay the Commission the amount of the benefit charges collected by the director of finance through the last day of the preceding month.

(2) If the director of finance does not pay the amount due the Commission as provided in paragraph (1) of this subsection, the amount due shall bear a penalty of 1% per month.

(3) The director of finance is personally liable for failure to pay the amount due to the Commission.

(4) The county councils of Montgomery County and Prince George's County shall require the bonds of its respective director of finance to be conditioned on payment to the Commission of the amount collected under this section.

(f) (1) By December 1 of each year, the Commission shall pay Montgomery County and Prince George's County a reasonable amount for the services of its respective director of finance.

(2) The payment provided for in paragraph (1) of this subsection shall be included as an item in the Commission's operating budget.

§25–301.

(a) For each service connection under § 23–202 of this article, the Commission shall set a connection charge that the Commission determines to be reasonable.

(b) Subject to a yearly revision by the Commission:

(1) for connections of the sizes and classes for which the average cost reasonably may be ascertained, the connection charge shall be uniform throughout the sanitary district; and

(2) for all other connections, the connection charge shall be the actual cost.

(c) All property owners shall pay the connection charge to the Commission before the actual connection of any line on private property is made.

(d) Of the total revenue over actual cost that is derived from the connection charges, the Commission shall:

(1) retain one–half of the revenue in a contingency fund for repair, replacement, or any extraordinary expense in the maintenance and operation of water supply or sewer systems under the control of the Commission; and

(2) apply one–half of the revenue to pay the Commission's debt service for outstanding debts.

§25–302.

(a) If the Commission determines that it is feasible, reasonable, and economical, the Commission may place in a separate class a water or sanitary sewer connection that is made to a water or sewer line installed in a street, road, alley, or right–of–way that has not been paved or otherwise improved to avoid the necessity of replacing pavement or street improvements on installation of the connection.

(b) (1) The Commission may:

(i) impose a connection charge based on the actual cost of the connections, including the Commission inspection charge; or

(ii) provide for the installation of the connections, including taps into a main or line, by the applicant or at the applicant's cost, under supervision and inspection of the Commission.

(2) The Commission may authorize any class of connection from its water line or sanitary sewer line to be constructed beyond the property line of the property to be served if the connecting line is constructed at the same time from the main to the structure on the property to be served.

(c) The property owner shall pay the entire expense of the construction and maintenance of the part of the connecting line from the property line into the property.

§25–303.

(a) If the Commission provides for a class of connections for unimproved areas as provided in § 25–302 of this subtitle:

(1) the charges for water and sanitary sewer connections to similar properties in developed areas may be based on the Commission's calculation, based on its experience, of an average cost for connections in both unimproved and developed areas; and

(2) the Commission may specify this connection charge as the uniform connection charge provided in § 25–301 of this subtitle for connections installed by the Commission in developed areas.

(b) Any difference between the actual cost of the connections and the uniform connection charge shall be paid from the water service charge or a sewer usage charge, as applicable.

§25–304.

(a) (1) The Commission may provide for the installation of the water or sewer connection as part of the construction of a water or sewer lateral line where the property to which the connection is made has not been assessed a front foot benefit charge under § 25–203 of this title.

(2) If an installation is made under paragraph (1) of this subsection, the Commission shall collect the deferred part of the connection charge by the benefit charge assessment procedure under §§ 25–204(e) and 25–209 of this title.

(b) (1) If the water or sewer lateral line has been constructed or where the property for which an application for connection is made has been assessed a benefit charge under § 25–204 of this title and the property is in an agricultural, small acreage, or residential class, the Commission may provide for an installment payment method for all or a part of the water and sewer connection charges for single family residential units with individual water or sewer connections.

(2) If an installment payment method is established and chosen by an applicant for connection:

(i) the installation of the connection is an additional benefit to the property; and

(ii) the applicant is liable for payment for the additional benefit until the deferred charge has been amortized under the schedule that the Commission requires.

(3) The connection charge benefit assessment is payable as provided in §§ 25–204(e) and 25–209 of this title.

§25–305.

In adopting or amending any regulation under this subtitle, and in establishing or modifying water or sewer connection charges under §§ 25–302 and 25–303 of this subtitle, the Commission shall comply with the requirements of § 17–403 of this article.

§25–401.

(a) In this subtitle the following words have the meanings indicated.

(b) "Apartment unit" means a single family housing unit that:

(1) is one of multiple units within a building;

(2) contains at least one full bath and one full kitchen; and

(3) does not contain more than two toilets.

(c) "Fixture unit" means the assigned value for a plumbing fixture or group of plumbing fixtures, as set forth in the Commission's plumbing and gas fitting regulations, that is standardized with a common lavatory having an assigned value of one based on its probable discharge into the drainage system or hydraulic demand on the water supply.

(d) "New service" means:

(1) a first time connection of a property to the Commission water or sewer system, including:

(i) a direct connection of an improvement or building; or

(ii) a connection of the improvement or building through an existing on–site system; or

(2) a new connection or increased water meter size for a property previously or currently served by the Commission if the new connection or increased meter size is needed because of a change in the use of the property or an increase in demand for service at the property.

(e) "Property" means an improvement or a building on a lot or parcel of land that contains plumbing fixtures.

(f) "Toilet" means a water closet, as set forth in the Commission's plumbing and gas fitting regulations.

§25–402.

(a) In addition to any other charges authorized under this division, the Commission may impose a system development charge that shall be paid by an applicant for new service.

(b) The system development charge shall be paid as follows:

(1) for residential properties:

(i) 50% at the time the plumbing permit application is filed; and

(ii) 50% within 12 months after the earlier of the date on which a plumbing permit application is filed or on transfer of title to the property; and

(2) for other properties, 100% at the time the plumbing permit application is filed.

(c) When the applicant files the plumbing permit application, the applicant shall deposit with the Commission security:

(1) in the form of an irrevocable letter of credit;

(2) in the form of a financial guaranty bond; or

(3) in a form the Commission establishes and approves under its regulations.

§25–403.

(a) (1) Each year the Montgomery County Council and the Prince George's County Council shall meet to determine the amount of the system development charge.

(2) The amount of the system development charge for a particular property:

(i) shall be based on the number of plumbing fixtures and the assigned values for those fixtures as set forth in the Commission's plumbing and gas fitting regulations;

(ii) except as provided in item (iii) of this paragraph and subsection (e) of this section, may not exceed $200 per fixture unit; and

(iii) for residential properties with five or fewer toilets, shall be based on the number of toilets per dwelling unit and:

1. for each apartment unit, may not exceed $2,000;

2. for dwellings with one or two toilets, may not exceed $3,000;

3. for dwellings with three or four toilets, may not exceed $5,000;

4. for dwellings with five toilets, may not exceed $7,000; and

5. for dwellings with more than five toilets, shall be calculated on a fixture unit basis.

(3) When determining the system development charge, the county councils shall consider the actual cost of construction of Commission facilities.

(b) When determining the system development charge, under definitions established jointly and agreed on by the county councils, the county councils:

(1) shall grant a full or partial exemption from the charge for public sponsored or affordable housing as jointly defined and agreed on by the county councils;

(2) for properties located in Montgomery County only, shall grant a full or partial exemption from the charge for:

(i) 1. revitalization projects;

2. property used by a community–based organization that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code and has the primary mission and purpose of providing recreational and educational programs and services to youth, if:

A. the property is used primarily for recreational and educational programs and services to youth; and

B. the exemption amount is limited to $80,000;

3. property used primarily for child care or after–school care; or

4. property used primarily for programs and services for developmentally disabled individuals; and

(ii) under definitions set forth by the county councils:

1. residential property located in a planned retirement community as defined in the zoning ordinance of Montgomery County;

2. elderly housing other than that included in item 1 of this item; and

3. properties used for manufacturing or biotechnology research and development;

(3) for properties located in Montgomery County only, may not require that an applicant for an exemption own the property for which an exemption is sought; and

(4) for properties located in Prince George's County only, may grant a full or partial exemption from the charge for:

(i) 1. revitalization projects;

2. property owned by a community–based organization that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code and has the primary mission and purpose of providing recreational and educational programs and services to youth, if:

A. the property is used primarily for recreational and educational programs and services to youth; and

B. the exemption amount is limited to $80,000;

3. property used primarily for child care or after–school care; or

4. property used primarily for programs and services for developmentally disabled individuals; and

(ii) under definitions set forth by the county councils:

1. residential property located in a mixed retirement development as defined in the zoning ordinance of Prince George's County;

2. elderly housing other than that included in item 1 of this item; or

3. properties used for manufacturing or biotechnology research and development.

(c) (1) Montgomery County shall approve applications for the exemptions from the system development charge required under subsection (b) of this section on a first–come, first–served basis until the maximum annual limit, including any unused amounts carried over from a prior fiscal year, is reached.

(2) On or before October 1 each year, Montgomery County shall report to the members of the Montgomery County Delegation to the General Assembly, in accordance with § 2–1257 of the State Government Article, on the exemptions from the system development charge in Montgomery County required under:

(i) subsection (b)(1) of this section for the immediately preceding fiscal year, including:

1. the process used to identify publicly sponsored and affordable housing projects;

2. the number of publicly sponsored and affordable housing projects granted exemptions; and

3. the number of publicly sponsored or affordable housing units included in each project; and

(ii) subsection (b)(2) of this section for the immediately preceding fiscal year, including:

1. the application process for each exemption; and

2. for each exemption:

A. the total number of exemption applications received; and

B. the total number and amount of exemptions granted.

(d) On or before October 1 each year, Prince George's County shall report to the members of the Prince George's County Delegation to the General Assembly, in accordance with § 2–1257 of the State Government Article, on the exemptions from the system development charge in Prince George's County described under:

(1) subsection (b)(1) of this section for the immediately preceding fiscal year, including:

(i) the process used to identify publicly sponsored and affordable housing projects;

(ii) the number of publicly sponsored and affordable housing projects granted exemptions; and

(iii) the number of publicly sponsored or affordable housing units included in each project; and

(2) subsection (b)(4) of this section for the immediately preceding fiscal year, including:

(i) the application process for each exemption; and

(ii) for each exemption:

1. the total number of exemption applications received; and

2. the total number and amount of exemptions granted.

(e) On July 1, 1999, and July 1 of each succeeding year, the maximum charge, as established in subsection (a)(2) of this section, may be changed by an amount equal to the prior calendar year's change in the Consumer Price Index published by the Bureau of Labor Statistics of the United States Department of Labor for urban wage earners and clerical workers for all items for the Washington, D.C. metropolitan area, or the successor index.

(f) If the county councils do not agree on the amount of the system development charge, the system development charge imposed during the previous year shall continue in effect for the following fiscal year.

(g) If the system development charge established by the county councils is less than the amount necessary to recover the full cost of constructing growth related facilities, the Commission shall identify the part of the cost of that growth that will be paid by current ratepayers as:

(1) a percentage of any rate increase; and

(2) the annual monetary amount on a typical residential customer's annual water and sewer bill.

§25–404.

(a) (1) The Commission shall deposit all funds collected under the system development charge into a system development charge fund.

(2) The system development charge fund is a special fund that may not revert to general funds of the Commission.

(b) The Commission may use the funds collected from the system development charge only to:

(1) pay for new treatment, transmission, and collection facilities, the need for which is directly attributable to the addition of new service and the construction of which began after July 1, 1993; or

(2) amortize any bond that is issued in connection with the construction of those new facilities.

(c) Other costs of enhancement, maintenance, or environmental regulation on existing or new systems shall be borne equally by all ratepayers.

§25–405.

(a) The Commission may allow a developer to design and construct any on–site or off–site facility necessary for the developer's project if the facility is:

(1) in the Commission Capital Improvement Program and the 10–year Comprehensive Water Supply and Sewerage System Plan adopted by one of the county councils;

(2) a major project included in the Commission Capital Improvement Program; or

(3) a project that includes a sewer main or water main that:

(i) provides only local service;

(ii) is 2,000 feet or less;

(iii) has a diameter of:

1. 15 inches or more if it is a sewer main; or

2. 16 inches or more if it is a water main; and

(iv) is built to avoid unnecessary and uneconomical duplication when a major project is constructed.

(b) A facility constructed under this section shall be designed, constructed, and inspected in accordance with:

(1) the standards used by the Commission; and

(2) all applicable laws, regulations, and written policies of the Commission.

(c) After the Commission approves a facility constructed by a developer under this section, the Commission shall:

(1) accept the facility as part of the Commission system; and

(2) subject to subsection (d) of this section, grant the developer a credit against any charge imposed under this subtitle in an amount equal to the cost of constructing the facility.

(d) The Office of the Inspector General shall review and approve the costs incurred by the developer.

(e) The Commission and the developer shall enter into an agreement that incorporates the provisions of this section.

(f) If the Commission rejects a developer's request to design and construct facilities under this section, the Commission shall explain in writing to the developer the reasons for the rejection.

(g) (1) The Commission shall submit a report at the end of each fiscal year to the Montgomery County and Prince George's County Delegations to the General Assembly and to the county councils of Montgomery County and Prince George's County.

(2) The report shall state the number of requests made by developers under this section, including:

(i) the number of acceptances and rejections by the Commission; and

(ii) the justification for any rejections.

§25–501.

(a) The Commission shall set a service rate that the Commission considers necessary to provide funds for:

(1) maintaining, repairing, and operating its water supply and sewer systems, including the overhead expense and depreciation allowance; and

(2) making any payments to the District of Columbia, as specified in this title.

(b) The service rate:

(1) shall be chargeable against all properties for a connection with any line owned by the Commission;

(2) shall be uniform throughout the sanitary district; and

(3) may be changed as necessary.

§25–501.1.

(a) (1) In this section the following words have the meanings indicated.

(2) "Indirect customer" means an individual who:

(i) receives water service or sewer service or both from the Commission; but

(ii) is not billed by the Commission for the service.

(3) "Ratepayer" means an individual who receives a bill directly from the Commission for water service or sewer service or both.

(b) (1) Notwithstanding any other law, on or before July 1, 2015, the Commission shall establish a Customer Assistance Program to provide financial assistance with water and sewer bills to eligible ratepayers.

(2) The Commission shall establish income eligibility standards for a ratepayer to receive financial assistance under this subsection.

(3) Financial assistance provided under this subsection may include the reduction or waiver of fees, including late fees.

(c) (1) The Commission may establish an Indirect Customer Assistance Program.

(2) The purpose of the program is to provide financial assistance to eligible indirect customers for water and sewer service.

(3) If the Commission establishes a program under this subsection, the Commission shall establish income eligibility standards and a process for an indirect customer to receive financial assistance under the program.

(d) (1) The Customer Assistance Program and the Indirect Customer Assistance Program shall be funded from Commission revenues.

(2) Income eligibility standards for the Customer Assistance Program and the Indirect Customer Assistance Program shall be applied uniformly throughout the sanitary district.

§25–502.

(a) (1) Except as provided in this subtitle, the service rate for water shall consist of:

(i) a minimum or a ready to serve charge; and

(ii) a charge for water used.

(2) The minimum or ready to serve charge shall be based on the size of the meter on the water connection leading to the property.

(3) The charge for water used shall be based on the amount of water passing the meter during the period between the last two readings.

(4) The meter shall be placed on each water connection by and at the expense of the Commission.

(b) The Commission may provide that a specified minimum number of gallons of water:

(1) be included in the minimum or ready to serve charge without additional service charges for the water; and

(2) may vary with the size of the meter involved.

(c) (1) If the Commission furnishes water to a federal, State, or other unit of government that is exempt from benefit charges or ad valorem taxes imposed under this division, the Commission shall set the water service charge at an amount the Commission considers necessary and reasonable.

(2) In setting the charge, the Commission shall take into consideration the general tax, the benefit charge imposed in the sanitary district, and the regular service rate as provided in subsections (a) and (b) of this section.

(d) (1) If, because of public necessity, the Commission has extended the Commission's water system outside the boundaries of the sanitary district to render a needed service, the Commission may pay for the extension out of its funds.

(2) The Commission may set any charge that it considers reasonable for all connections to its water system made outside of the sanitary district.

(3) In setting the charge the Commission shall take into consideration the general tax and front foot benefit charge imposed in the sanitary district.

(4) The Commission has the same authority over connections made to the Commission's water system outside the sanitary district as it has in the sanitary district.

(e) (1) On request by the Mayor and City Council of the City of Laurel, the Commission shall furnish water from the Patuxent River supply to the city.

(2) The service rate for the water supplied by the Commission to the City of Laurel shall be at the actual cost of supplying the water to the city's water system.

(3) The Mayor and City Council of the City of Laurel may construct a system to receive water from the Commission to the nearest convenient point to the Commission's Patuxent River supply.

(4) The connection point between the Commission's system and the city's water system must be at or near the Commission's dam.

§25–503.

(a) Except as otherwise provided in subsections (c), (d), and (e) of this section, the Commission shall impose a sewer usage charge, based on the water consumption of each property, against all properties connected to the Commission's sewer system to provide funds for:

(1) payment of principal and interest for bonds authorized under § 22–102(a) and (b) of this article;

(2) maintenance of the sewer system and disposal facilities, including the overhead expense and depreciation allowance; and

(3) payments to the District of Columbia for disposal of sanitary district sewage.

(b) (1) The Commission shall impose a sewer usage charge against the property of a federal, State, or other unit of government that is:

(i) exempt from front foot benefit charges and ad valorem taxes imposed under this division; and

(ii) connected to the Commission's sewer system.

(2) In setting the charge, the Commission shall take into consideration the general tax, the front foot benefit charge imposed in the sanitary district, and the regular sewer usage charge as provided in this section.

(c) (1) If the Commission furnishes sewer service to a property that is not connected to the Commission's water system, the Commission shall impose a sewer usage charge that:

(i) fairly and ratably compensates the Commission for the use of the sewer system; and

(ii) takes into consideration the sewer usage on the property and the sewer usage charge applicable to similar properties connected to the water system.

(2) The Commission shall bill for the amount of the sewer usage charge under this subsection monthly, twice a year, or once a year.

(d) (1) Subject to paragraphs (2) and (5) of this subsection, if water furnished by the Commission to a lot or parcel of land is used exclusively for any purpose that results in the water not entering the Commission's sewer system, the Commission may not impose a sewer usage charge to the owner, tenant, or occupant of a lot or parcel of land for the amount of the water furnished by the Commission that does not enter the Commission's sewer system.

(2) The owner, tenant, or occupant of a lot or parcel of land exempt under paragraph (1) of this subsection shall pay the Commission:

(i) the cost of installing a separate metered connection; and

(ii) an annual amount equal to the Commission's annual water service charge for the size of the meter installed.

(3) The Commission shall determine the location for the installation of the required meter.

(4) The Commission may adopt regulations regarding the maintenance and control of the meter.

(5) The sewer usage charge for properties under paragraph (1) of this subsection shall be based on the total amount of water used as determined under § 25–502(a) and (b) of this subtitle, less the amount of separately metered water.

(e) (1) A commercial, industrial, or multiresidential property may use a separate metered connection as provided in subsection (d) of this section, even though a portion of the separately metered water enters the sewer system of the Commission, provided that the owner, tenant, or occupant of the property requests to be billed according to a formula determined by the Commission.

(2) The formula determined by the Commission under paragraph (1) of this subsection shall:

(i) credit the owner, tenant, or occupant for separately metered water not entering the sewer system of the Commission; and

(ii) be consistent with:

1. manufacturers' engineering standards for the class of equipment using the separately metered water supplied by the Commission; or

2. industry standards for the class of operations using the separately metered water supplied by the Commission.

(3) The sewer usage charge for properties under paragraph (1) of this subsection shall be based on the sum of:

(i) the total amount of water used as determined under § 25–502(a) and (b) of this subtitle, less the amount of separately metered water; and

(ii) the amount of separately metered water as adjusted by the formula described in paragraph (2) of this subsection.

(f) This section may not be construed to invalidate an existing contract between the Commission and a municipality located in the sanitary district without the consent of the municipality.

§25–504.

(a) The Commission:

(1) may provide for the billing and collection of the water and sewer usage charges on an estimated basis for periods of 6 months or less, based on the historical daily average consumption calculated from actual previous usage;

(2) shall read the meter at least once every 6 months; and

(3) (i) shall base the final bill for the 6–month period on the actual consumption adjusted by previous estimates, if the meter had not been read because it was inaccessible;

(ii) shall base the final bill for the 6–month period on the historical daily average consumption, calculated from actual previous usage, if a final reading cannot be made because:

1. the meter malfunctioned;

2. the meter had been taken out of service for repairs, maintenance, or water system relining purposes; or

3. there was theft of service;

(iii) may modify the historical daily average consumption calculation based on appropriate evidence submitted by the owner; and

(iv) may not base a final bill on estimated usage for two consecutive 6–month periods.

(b) (1) (i) The Commission shall bill for the amount of water and sewer usage charges to each property served monthly, every other month, four times a year, or twice a year, as the Commission determines.

(ii) 1. It is the intent of the General Assembly that the Commission shall bill on a fixed periodic basis, such as monthly or quarterly billing, without the use of estimated billing.

2. Subsubparagraph 1 of this subparagraph may not be construed to endorse any particular technology or approach to implementing the intent of the General Assembly.

(2) On receipt each bill is payable to the Commission.

(c) (1) A late payment charge of 5% of the unpaid charges shall be added and collected as part of the bill if:

(i) the Commission sends out a bill for water and sewer usage charges in the regular course of business;

(ii) for a service period of less than 3 months, the bill is not paid 20 days from the date of sending; or

(iii) for a service period of 3 months or more, the bill is not paid 30 days from the date of sending.

(2) The late payment charge is in addition to and not in substitution for or derogation of any other right or remedy granted to the Commission by any other law.

(d) (1) If a bill is not paid within 30 days after the date of sending, after leaving written notice on the premises or mailing notice to the owner's last known address, the Commission shall turn off the water to the property.

(2) The water may not be turned on again until the bill, any late payment penalty charges as authorized by law, and the cost incurred in shutting off and restoring the water supply are paid.

(e) If a bill is not paid within 60 days after the date of sending, the bill shall be collected against the owner of the property served in the same manner as other debts are collected in Montgomery County and Prince George's County.

(f) (1) This subsection applies only to property subject to a condominium regime established under Title 11 of the Real Property Article.

(2) Notwithstanding any other law, if the Commission directly bills the governing body of a condominium or a person designated by the governing body of a condominium for water or sewer usage charges for all or a portion of the units in a condominium property, and a charge is in default for at least 60 days, the Commission shall post notice conspicuously at or near the entry to the common area of the condominium.

(3) The Commission may enter onto the common area of a condominium property at a reasonable time to post the notice required under this subsection.

(g) The provisions of subsections (b), (d), (e), and (f) of this section that relate solely to sewer usage charges may not be construed to invalidate an existing contract between the Commission and a municipality located in the sanitary district without the consent of the municipality.

(h) On or before November 1, 2026, and each year thereafter, the Commission shall report to the county councils for Montgomery County and Prince George's County the total number of customers in the immediately preceding year that reported bills exceeding the limits for high bill adjustments under the Washington Suburban Sanitary Commission Code of Regulations.

§25–505.

(a) (1) In this section the following words have the meanings indicated.

(2) "Acquiring authority" means the State, Montgomery County, Prince George's County, or any municipality or unit of the State, Montgomery County, or Prince George's County.

(3) "Bill for water and sewer usage charges" includes, if applicable, the late payment penalty provided under § 25–504(c) of this subtitle.

(b) (1) Before acquiring property in the sanitary district, an acquiring authority shall:

(i) determine if any bill for water and sewer usage charges is outstanding against the property; and

(ii) require the payment of any outstanding bill for water or sewer charges on the property before acquiring the property.

(2) If a bill for water and sewer usage charges is not paid before an acquiring authority acquires the property, the acquiring authority shall:

(i) deduct the amount of the bill from the purchase price of the property; and

(ii) pay the amount of the bill over to the Commission.

(3) If the bill for water or sewer usage charges is not paid when the acquisition of the property is completed, the acquiring authority:

(i) is responsible for the bill; and

(ii) shall pay the bill to the Commission on demand.

§25–506.

(a) In this section, "charitable institution" means an institution:

(1) that is located in Montgomery County or Prince George's County; and

(2) whose purpose is primarily charitable.

(b) Except as provided in subsection (c) of this section, if a charitable institution does not discriminate against the entrance or care of residents of Montgomery County or Prince George's County, the Commission:

(1) shall supply without cost up to 100 gallons of water per day for each resident of the charitable institution; and

(2) may not charge the charitable institution a fee for sewer usage for the water supplied under item (1) of this subsection.

(c) (1) The charitable institution shall install and maintain a water meter at its own cost.

(2) The Commission may charge the charitable institution for:

(i) the cost of reading the water meter; and

(ii) sewer usage and water used in excess of 100 gallons per day for each resident of the charitable institution.

§25–507.

(a) This section may not be construed to invalidate a contract between the Commission and a municipality located in the sanitary district without the consent of the municipality.

(b) Except as provided in subsection (c) of this section, the Commission shall charge and collect its service rate for water, including a ready to serve charge, for all water used by:

(1) the State;

(2) Montgomery County;

(3) Prince George's County; and

(4) a municipality in Montgomery County or Prince George's County.

(c) Notwithstanding any other law, a fire department or rescue squad that is recognized by Montgomery County or Prince George's County or that is maintained and operated by a municipality in Montgomery County or Prince George's County is exempt from all Commission water and sewer usage charges and meter service charges.

§25–508.

(a) This section applies only in Prince George's County.

(b) There is an Office of Prince George's County Ombudsman in the Commission.

(c) The Prince George's County Executive, with the approval of the Prince George's County Council, shall appoint an Ombudsman.

(d) (1) (i) Prince George's County shall:

1. pay the Ombudsman's salary;

2. provide to the Ombudsman any benefits available to other employees of Prince George's County; and

3. provide funding for the Office of the Ombudsman.

(ii) The county may pay for any legal expenses incurred by the Ombudsman, as provided in the county budget.

(2) The Prince George's County Council shall determine the salary of the Ombudsman.

(3) While holding office, the Ombudsman may participate in any Commission program of group health, life, or disability insurance to the same extent and under the same terms as other Commission officers and employees.

(e) The Ombudsman may represent the interests of a Prince George's County residential or commercial customer who files a written claim with the Commission for:

(1) a refund of a payment on a bill for water and sewer usage charges that exceeds the amount that is properly and legally payable; or

(2) a reduction in a bill for water and sewer usage charges that exceeds the amount that is properly and legally payable that has not yet been paid.

(f) The Ombudsman:

(1) shall:

(i) receive a copy of, and review, any written claim filed with the Commission under § 25–106(b) of this title;

(ii) investigate the merits of the claim;

(iii) attend any hearing held in accordance with § 25–106(c)(2) of this title and present any findings and recommendations on the merits of the claim during the hearing; and

(iv) prepare a written statement of findings and recommendations on the claim and provide copies of the statement to the Commission and the claimant; and

(2) may represent the customer in any appeal process.

(g) Notwithstanding any other provision of this division, as to Prince George's County residential customers, if all undisputed bills for water and sewer usage charges are paid when due, the Commission may not interrupt service during the pendency of a written claim filed for a reduction in a bill for water and sewer usage charges that exceeds the amount that is properly and legally payable.

§26–101.

The Commission and Anne Arundel County may enter into a contract for the Commission to construct, operate, and maintain a water system in Anne Arundel County for the purpose of supplying water to:

(1) the corrective institution of the District of Columbia, as authorized by Chapter 434 of the Acts of 1953, or its successor, if any; and

(2) residents of Anne Arundel County who may be reasonably served from the water system.

§26–102.

To carry out this subtitle, the Commission may:

(1) enter on a public roadway as provided in § 27–101 of this article without receiving a permit from or paying a fee to Anne Arundel County;

(2) acquire property in Anne Arundel County in the same way as provided for acquiring property in Prince George's County in Title 21, Subtitle 2 of this article; and

(3) adopt regulations.

§26–103.

Except as provided in Commission regulations, a person may not use, handle, tamper with, obstruct, interfere with, deface, or destroy any part of the water system constructed by the Commission under this subtitle, including pipes, fittings, fireplugs, pumps, engines, appliances, wires, or other fixtures or equipment.

§26–201.

The Commission may construct, operate, and maintain a water system to the Howard County boundary line to supply water to the residents of Howard County.

§26–202.

(a) The Commission may contract with Howard County and any person to furnish water.

(b) The parties to a contract under this section may determine by agreement the costs, rentals, service charges, or other fees entered into under the contract.

(c) (1) If the Commission and any person who wants water service cannot agree on the reasonableness of the charge for the service, the Public Service Commission may determine the amount of the charge.

(2) The Public Service Commission's determination is final and binding on all parties concerned.

§26–203.

(a) The Commission may contract with the Howard County Department of Public Works for the maintenance and operation of parts of the Howard County Department of Public Works' water system that are supplied from the Commission's water system.

(b) If the contract under subsection (a) of this section requires the Commission to maintain and operate parts of the Howard County Department of Public Works' water system:

(1) the operating control of those parts of the Howard County Department of Public Works' water system belongs exclusively to the Commission; and

(2) the Commission shall collect fees and charges incident to the maintenance and operation of the water system or the use of water in accordance with § 25–504(b), (c), and (d) of this article.

§26–204.

(a) If Howard County is supplied with water from the Commission's system, the Commission may adopt regulations requiring:

(1) the use of water saving devices;

(2) curtailing of water use during water restriction periods; and

(3) compliance with health requirements of the Commission's plumbing regulations.

(b) Howard County shall comply with the regulations adopted by the Commission for those parts of the Howard County Department of Public Works' water system supplied with water by the Commission.

§26–205.

Except as provided in Commission regulations, a person may not use, handle, tamper with, obstruct, or interfere with any part of the Howard County Department of Public Works' water system that is supplied with water from the Commission's water system, including pipes, fittings, fireplugs, pumps, engines, appliances, wires, or other fixtures or equipment.

§26–206.

(a) The Commission may provide a sewage collection and disposal system for the Patuxent River drainage area in Howard County.

(b) (1) The Commission may contract with Howard County regarding:

(i) sewage disposal; and

(ii) the terms and conditions on which sewage disposal service may be performed.

(2) The cost of sewage disposal under this section may not be apportioned or levied on any property in Montgomery County or Prince George's County.

§27–101.

(a) The Commission may:

(1) enter on a public roadway to install, maintain, and operate the Commission system; and

(2) construct a water main, sewer, or an appurtenance of a water main or sewer in a public roadway in Montgomery County and Prince George's County, subject to the regulation and permit provisions of §§ 27–102 and 27–108 of this title.

(b) When the Commission disturbs a public roadway, the Commission shall:

(1) notify the State, county, or municipality that has authority over the public roadway of the Commission's plans;

(2) repair and leave the public roadway in the same or a superior condition to that existing before the public roadway was disturbed; and

(3) pay all costs for returning the public roadway to the same or superior condition.

(c) In addition to the authority over the construction and location of underground construction in the sanitary district, the Commission may regulate the construction of an overhead line, pole, or other public utility along a public roadway in the sanitary district.

§27–102.

(a) In Montgomery County and Prince George's County, the county executive and county council may adopt regulations concerning the Commission's entry into or use of a public roadway for which a permit is required.

(b) The regulations adopted under this section:

(1) shall be adopted after consultation with the Commission;

(2) may include provisions for the review and approval of the required permits to be issued by the Commission under § 27–108 of this title for the construction or location of pipes, conduits, tracks, lines, poles, or facilities of a public utility in the public roadways of the county;

(3) subject to reasonable provisions for control by the county of the construction, disturbing, or repair of the public roadway, may not:

(i) be administered so as to constitute a taking of a franchise right that a public service company or a utility company has in a public roadway; and

(ii) divest the Commission of its right to use a public roadway for the installation of a Commission facility;

(4) subject to this title, may not prohibit the installation in a public roadway of a facility being constructed by the Commission to provide service to the sanitary district in the other county; and

(5) may not be inconsistent with this title.

(c) (1) The review and approval procedures authorized by subsection (b)(2) of this section:

(i) may require review and approval by the county before the Commission issues the permit; and

(ii) may not result in any cost to the Commission or to the public utility.

(2) A permit issued by the Commission under § 27–108 of this title is not effective unless the appropriate county approves the permit.

(d) (1) The Commission:

(i) shall give a county advance notice of the date, time, and extent to which the Commission plans to cut into a public roadway, sidewalk, or other public property of the county; and

(ii) if required by a regulation adopted under this section, shall:

1. submit a copy of proposed construction plans to the county before construction begins; and

2. apply for and obtain a permit from the county at no cost to the Commission.

(2) The county shall promptly process the Commission's permit application.

(3) The issuance of a permit under this section constitutes approval of the Commission's proposed construction as specified in the permit.

(4) If the construction under this section is an emergency, the Commission shall notify the appropriate county as soon as practicable after the cut.

(e) On prior notice, the county may:

(1) make all necessary final repairs to restore property to a condition satisfactory to the county; and

(2) charge all costs for the final repairs to the Commission or to the public utility that made the entry on the property.

§27–103.

(a) Sections 27–101 and 27–102 of this title do not limit the Commission's authority to enter into contracts or agreements with a unit of federal, State, county, or municipal government or with the District of Columbia concerning the matters described in §§ 27–101 and 27–102 of this title, if the agreement or contract is necessary, advisable, or expedient in connection with the construction, maintenance, and operation of the Commission's water and sewer systems.

(b) Sections 27–101 and 27–102 of this title do not impair the rights of the State Highway Administration concerning Commission or utility use of a State highway, including a road that is constructed in whole or in part with federal funds.

§27–104.

(a) (1) In this section the following words have the meanings indicated.

(2) "Homeowner corporation" means a homeowner association with 5,000 or more members that has:

(i) filed a written request with the Commission to receive the information required by this section; and

(ii) provided the Commission with a map of the homeowner corporation's geographic boundaries.

(3) "System repair" means work to install, maintain, or operate the Commission system that involves cutting into a public roadway, sidewalk, or other improvement on public property of a county or municipality located in the sanitary district.

(b) (1) On or before September 1 of each year, the Commission shall submit to each county, municipality, and homeowner corporation located in the sanitary district a plan of system repairs scheduled for the next 3 years.

(2) The Commission shall submit the plan of scheduled system repairs to the person designated by the county, municipality, or homeowner corporation.

(c) For each scheduled system repair, the plan shall include:

(1) the anticipated system repair date and time;

(2) the system repair location; and

(3) an analysis of the impact that the system repair will have on the affected counties, municipalities, and homeowner corporations.

(d) Before submitting the plan of system repairs, the Commission shall consult with the affected counties, municipalities, and homeowner corporations located in the sanitary district.

§27–105.

(a) (1) If a county requires the relocation or removal of a Commission facility, the county shall give notice to the Commission of the requirement within a reasonable time.

(2) On receiving notice, the Commission shall provide the county with an estimate of the cost of removing or relocating the facility.

(3) On completion of the removal or relocation of the facility, the Commission shall provide the county with an itemized statement of the actual cost of removal or relocation.

(b) (1) For the relocation or removal of a facility for which the Commission is required to pay because of any road construction or improvement required by either Montgomery County or Prince George's County, the governing body of the county in which the construction or improvement is made shall pay one–half of the actual cost of the construction or improvement in that county.

(2) (i) Unless the county disputes a charge in the itemized statement of actual costs, the county shall pay the costs within 6 months after receipt of the statement.

(ii) If the itemized statement as submitted or finally agreed on is not paid within 6 months after submission or agreement, the itemized statement shall bear 6% interest until paid.

(c) (1) If there is a dispute over a charge in the itemized statement of actual costs, within 3 months after receipt of the statement, the dispute shall be referred to an arbitrator selected by the Commission and the county.

(2) If the Commission and the county do not agree on an arbitrator, the Commission and the county shall each appoint an arbitrator, who jointly shall appoint a third arbitrator.

(3) If a dispute goes to arbitration, the itemized statement as finally determined shall bear 6% interest after 6 months from the date of the finding by the arbitrator or arbitrators until the statement is paid.

§27–106.

(a) (1) In this section the following words have the meanings indicated.

(2) "Construction contractor" means a person that performs or is hired to perform road construction work.

(3) "Road construction work" means the construction, repair, paving, repaving, or grading of a public roadway.

(b) Before beginning road construction work on a public roadway in the sanitary district in which a water, sewer, or stormwater management structure is installed, a construction contractor shall give notice to the Commission and the county of the proposed construction work.

(c) The notice:

(1) shall include the proposed construction schedule and information about the location of construction to accomplish the purposes of this section;

(2) except in emergency road repair situations, shall be given to the Commission and the county at least 7 days before road construction work begins; and

(3) in an emergency road repair situation, shall be given to the Commission and the county as promptly as feasible under the emergency situation.

(d) Unless allowed by the Commission or the county, as appropriate, a person may not disturb, remove, pave over, or repave over a manhole, valve, fitting,

or other Commission water or sewer structure or county stormwater management structure.

§27–107.

(a) (1) Before a person begins underground construction in a public roadway in the sanitary district, the person shall file with the Commission a construction plan that shows the location and depth of the proposed main, conduit, or pipe in the public roadway.

(2) Construction may not begin before the Commission approves the plan.

(3) Unless the Commission approves the change, a change may not be made in the physical location of the main, conduit, or pipe shown on the plan.

(b) (1) The Commission may remove or change the location of a conduit, main, or pipe that interferes with the operation of the Commission's water and sewer systems if:

(i) the conduit, main, or pipe is constructed without the Commission's approval; or

(ii) the physical location of the conduit, main, or pipe is changed from that shown on the plan approved by the Commission.

(2) The person that constructed the interfering conduit, main, or pipe, or the person's successor, shall pay the expenses of the removal or change in location.

(3) The Commission is not liable for damage to the interfering conduit, main, or pipe because of construction or maintenance of the Commission's water and sewer systems.

(c) (1) If a person has a building, conduit, pipe, track, or other physical obstruction on a public roadway in Montgomery County or Prince George's County that blocks or impedes the Commission's water or sewer system, on reasonable notice from the Commission, the person shall promptly adjust, accommodate, or remove the obstruction at the person's expense and in a manner that fully meets the Commission's needs.

(2) The Commission may condemn an easement in a franchise or right in accordance with Title 21, Subtitle 1 of this article.

(d) The Commission may charge a reasonable fee for any permit that the Commission is required to obtain and for engineering services that the Commission is required to perform under this section.

§27–108.

(a) A person may not erect a pole or other structure in the sanitary district for the purpose of carrying wires overhead without first obtaining a permit from the Commission.

(b) The Commission may:

(1) require that plans for the location or construction of the pole or structure be filed with the Commission; and

(2) charge a reasonable fee for the permit.

§28–101.

The Commission is exempt from the payment of any fee or charge under § 5–403(b) and (c) of the Natural Resources Article.

§28–201.

(a) There is a Commission police force.

(b) (1) A Commission police officer may exercise the powers of a law enforcement officer in the State on property that is owned, leased, or operated by or under the control of the Commission.

(2) A Commission police officer may not exercise law enforcement powers on any other property unless the officer is:

(i) engaged in fresh pursuit of a suspected offender;

(ii) requested or authorized to do so in a political subdivision by the chief executive officer or chief police officer of the political subdivision;

(iii) needed for the orderly flow of traffic to and from property owned, leased, or operated by or under the control of the Commission; or

(iv) ordered to do so by the Governor.

(c) (1) After consulting with the Secretary of State Police and the Police Training and Standards Commission, the Commission shall adopt regulations to carry out this section, including standards for character, training, education, human relations, experience, and job performance for Commission police officers.

(2) To the extent practicable, the Commission shall adopt standards that are similar to the standards of the Department of State Police.

(3) Standards adopted on or after October 1, 2002, on minimum hiring qualifications of Commission police officers do not affect the status of an individual who was a qualified Commission special police officer on October 1, 2002.

§28–301.

(a) The Commission shall conduct quarterly testing of drinking water in the Commission system for unregulated contaminants included in the United States Environmental Protection Agency's latest cycle of unregulated contaminant monitoring regulations established in accordance with Title XIV, § 1445(a)(B)(i) of the federal Public Health Service Act.

(b) Within 30 days after receiving the results of each quarterly test, if the results indicate that a contaminant is present, the Commission shall:

(1) report the results of the test to the county executives of Montgomery County and Prince George's County; and

(2) publish the results of the test on its website.

§29–101.

(a) In this section, "enforcement official" means an employee of the Commission authorized by the Commission to issue a citation for a Commission infraction under this section.

(b) This section applies to the violations of the following:

(1) regulations governing sewer cleaning adopted under § 24–201 of this article;

(2) regulations governing plumbing adopted under § 17–403, Title 24, Subtitle 1, § 26–102, or § 26–204 of this article;

(3) regulations governing erosion and sediment control for utility construction adopted under § 17–403 of this article and § 4–105 of the Environment Article;

(4) regulations governing gas fitting adopted under § 17–404 of this article;

(5) regulations governing required permits for public utility construction adopted under §§ 27–101, 27–107, and 27–108 of this article;

(6) regulations governing the Commission Pretreatment Program adopted under § 17–403 of this article and § 9–332 of the Environment Article; or

(7) any other regulation adopted in accordance with § 17–406 of this article.

(c) (1) (i) A person who violates any provision of a regulation listed in subsection (b) of this section has committed a Commission infraction and on delivery of a citation by the Commission under subsection (d)(1) of this section shall pay to the Commission a civil fine in the amount of:

1. for a first violation of the regulation, $250;

2. for a second violation of the regulation, $500;

3. for a third violation of the regulation, $750; and

4. for a fourth or subsequent violation, $1,000.

(ii) Each day that a violation of the regulation remains uncorrected is a separate Commission infraction subject to an additional citation and fine in the amount of $250.

(2) (i) The payment due date for the fine may not be less than 10 or more than 20 calendar days after the date of delivery of the citation.

(ii) The recipient of the citation may pay the fine before the payment due date specified in the citation.

(d) (1) After verifying a Commission infraction the enforcement official shall deliver the citation to any person charged with committing the Commission infraction in accordance with the enforcement procedures of the regulations.

(2) The citation shall be on a form adopted by the Commission and shall include:

(i) the date of delivery of the citation;

(ii) the name and address of the person charged;

(iii) the specific provision of the regulations that has been violated;

(iv) the nature of the Commission infraction;

(v) the location and time that the Commission infraction occurred;

(vi) the amount of the civil fine assessed for the Commission infraction;

(vii) the manner, location, and time in which the fine may be paid to the Commission;

(viii) a statement that each day that a violation continues is a separate Commission infraction subject to additional citation;

(ix) the name, business address, title, and telephone number of the enforcement official who issued the citation; and

(x) notice of the person's right to a trial for the Commission infraction and instructions and time limits for that election.

(e) (1) A person who receives a citation for a Commission infraction under this section may elect to stand trial by filing with the Commission a notice of the person's intent to stand trial.

(2) The notice of intent to stand trial shall be given at least 5 days before the payment due date specified in the citation.

(3) On receipt of the notice of intent to stand trial, the Commission shall forward to the District Court having venue a copy of the citation and a copy of the notice of intent to stand trial that was filed by the person who received the citation.

(4) On receipt of the citation and the notice of intent to stand trial, the District Court shall schedule the case for trial and notify the defendant and Commission of the trial date.

(5) The District Court shall remit to the Commission all fines, penalties, or forfeitures the Court collects for Commission infractions.

(f) (1) If a person who receives a citation for a Commission infraction fails to pay the fine by the payment due date specified in the citation and fails to file a notice of the person's intent to stand trial for the offense:

(i) the person is liable for the assessed fine; and

(ii) the Commission shall send a notice of the Commission infraction to the person's last known address.

(2) (i) If the fine is not paid within 35 days after the date of the notice, the Commission may request adjudication of the case through the District Court, which may include the filing of a demand for judgment on affidavit.

(ii) On receipt of the request for adjudication, the District Court shall schedule the case for trial and summon the defendant to appear.

(3) If the defendant fails to respond to the summons and the Commission has made a proper demand for judgment on affidavit, the District Court shall enter judgment against the defendant in favor of the Commission in the amount then due.

(g) (1) For the purpose of this section, a Commission infraction is a civil offense.

(2) The adjudication of a Commission infraction:

(i) is not a criminal conviction; and

(ii) does not impose any of the civil disabilities ordinarily imposed by a criminal conviction.

(h) In a proceeding for a Commission infraction before the District Court, the violation shall be prosecuted in the same manner and to the same extent provided for municipal infractions under §§ 6–108 through 6–110, 6–112, and 6–114 of the Local Government Article.

§29–101.1.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) "Provide fuel gas services" means to install, maintain, alter, repair, remove, or replace propane or natural gas piping, gas utilization equipment, gas–fired equipment, appliances, or appurtenances in connection with a propane or natural gas supply system downstream of the point of delivery of the gas.

(ii) "Provide fuel gas services" does not include the installation, maintenance, alteration, repair, removal, or replacement of any of the following with respect to a plumbing water supply and drainage system:

1. fixtures that require additional energy sources, including clothes washers, dishwashers, food grinders, humidifiers, ice pumps, sterilizers, water coolers, and water heaters; or

2. operational devices, including aerators, backflow preventers, expansion tanks, filters, flow controls, heat exchangers, interceptors, meters, separators, and relief valves.

(3) (i) "Provide plumbing services" means to install, maintain, extend, alter, or remove piping, a plumbing fixture, a plumbing appliance, a plumbing appurtenance, or other plumbing apparatus:

1. within or adjacent to a building, structure, or property; and

2. in connection with:

A. a public or private disposal system, sanitary drainage facility, or storm drainage facility;

B. a venting system; or

C. a public or private water supply system.

(ii) Except for the first connection to a potable water supply that is downstream of a backflow preventer and the final connection that discharges indirectly into a public or private disposal system, sanitary drainage facility, or storm drainage facility, "provide plumbing services" does not include using piping, equipment, or material only for:

1. environmental control;

2. the incorporation of a liquid or a gas into a product or a process, including product development, in the manufacturing or storage of a product;

3. the installation, alteration, repair, or removal of an automatic sprinkler system, related apparatus, or standpipe that is used only for fire protection; or

4. an overhead or underground fire line beginning from where water is used only for fire protection.

(b) A person may not provide, attempt to provide, or offer to provide plumbing services in any area of Montgomery County or Prince George's County under the regulatory jurisdiction of the Commission without a license from the Commission.

(c) A person may not assist, attempt to assist, or offer to assist in providing fuel gas services in any area of Montgomery County or Prince George's County under the regulatory jurisdiction of the Commission without a license from the Commission.

(d) (1) Subject to the provisions of § 10–226(c) of the State Government Article and paragraph (2) of this subsection, the Commission's Plumbing and Fuel Gas Board may deny a license to any applicant, reprimand a licensee, or suspend or revoke a license if the applicant or licensee:

(i) fraudulently or deceptively obtains or attempts to obtain a license or permit for the applicant or licensee or for another;

(ii) fraudulently or deceptively uses a license;

(iii) is guilty of gross negligence, incompetence, or misconduct while providing plumbing or fuel gas services or assisting in providing plumbing or fuel gas services;

(iv) is guilty of violating the Commission's plumbing and fuel gas regulations adopted under Title 17, Subtitle 4 of this article while providing plumbing or fuel gas services or assisting in providing plumbing or fuel gas services; or

(v) is guilty of an unfair, abusive, or deceptive trade practice, as defined in § 13–301 of the Commercial Law Article.

(2) (i) In lieu of or in addition to reprimanding a licensee or suspending or revoking a license under paragraph (1) of this subsection, and in

addition to the provisions of § 29–101 of this title, the Commission's Plumbing and Fuel Gas Board may impose a penalty not exceeding $5,000 for each violation.

(ii) To determine the amount of the penalty imposed under subparagraph (i) of this paragraph, the Board shall consider:

1. the seriousness of the violation;

2. the harm caused by the violation;

3. the good faith of the licensee; and

4. any history of previous violations by the licensee.

§29–102.

(a) (1) Except as provided in paragraph (2) of this subsection, a person who violates a watershed regulation adopted under § 17–403 of this article has committed a Commission infraction.

(2) A Commission infraction does not include a violation of a watershed regulation declared by law to be a criminal offense.

(3) The Commission may:

(i) establish a schedule of preset fines for each conviction of a Commission infraction under this section;

(ii) impose a preset fine not to exceed $150 for each conviction of a Commission infraction under this section; and

(iii) impose a preset fine not to exceed $300 for a repeat offense.

(4) The recipient of a citation for a Commission infraction shall pay the fine to the Commission within 20 calendar days after the receipt of the citation.

(b) (1) (i) A Commission police officer may issue a citation to any person charged with committing a Commission infraction.

(ii) The Commission shall:

1. retain a copy of the citation; and

2. include on the citation a certification attesting to the truth of the matter specified in the citation.

(2) The citation also shall contain:

(i) the name and address of the person charged;

(ii) the nature of the Commission infraction;

(iii) the location and time that the Commission infraction occurred;

(iv) the amount of the civil fine assessed for the Commission infraction;

(v) the manner, location, and time in which the fine may be paid to the Commission; and

(vi) notice of the person's right to a trial for the Commission infraction.

(c) (1) A person who receives a citation for a Commission infraction under this section may elect to stand trial by filing with the Commission a notice of the person's intent to stand trial.

(2) The notice of intent to stand trial shall be given at least 5 days before the payment due date specified in the citation.

(3) On receipt of the notice of intent to stand trial, the Commission shall forward to the District Court having venue a copy of the citation and a copy of the notice of intent to stand trial that was filed by the person who received the citation.

(4) On receipt of the citation and the notice of intent to stand trial, the District Court shall schedule the case for trial and notify the defendant of the trial date.

(5) The District Court shall remit to the Commission all fines, penalties, or forfeitures the Court collects for Commission infractions.

(d) (1) If a person who receives a citation for a Commission infraction fails to pay the fine by the payment due date specified in the citation and fails to file a notice of the person's intent to stand trial for the offense, the Commission shall send a notice of the Commission infraction to the person's last known address.

(2) A person who fails to pay the fine within 15 days after the date of the notice is liable for an additional fine not to exceed twice the original fine.

(3) (i) If the fine is not paid within 35 days after the date of the notice, the Commission may request adjudication of the case through the District Court, which may include the filing of a demand for judgment on affidavit.

(ii) On receipt of the request for adjudication, the District Court promptly shall schedule the case for trial and summon the defendant to appear.

(4) If the defendant fails to respond to the summons and the Commission has made a proper demand for judgment on affidavit, the District Court shall enter judgment against the defendant in favor of the Commission in the amount then due.

(e) A person found by the District Court to have committed a Commission infraction shall pay a fine not to exceed:

(1) $150 for a first offense; or

(2) $300 for a repeat offense.

(f) (1) For the purpose of this section, a Commission infraction is a civil offense.

(2) The adjudication of a Commission infraction:

(i) is not a criminal conviction; and

(ii) does not impose any of the civil disabilities ordinarily imposed by a criminal conviction.

(g) In a proceeding for a Commission infraction before the District Court, the violation shall be prosecuted in the same manner and to the same extent provided for municipal infractions under §§ 6–108 through 6–110, 6–112, and 6–114 of the Local Government Article.

§29–103.

(a) In this section, "Commission Pretreatment Program" means any program adopted under the authority of § 9–332 of the Environment Article and § 17–403 of this article to:

(1) meet national and local pretreatment requirements; and

(2) eliminate the contribution of each pollutant discharged from an industrial user into a publicly owned treatment works that:

(i) causes pass through or interference with the publicly owned treatment works; or

(ii) contaminates sewage sludge.

(b) (1) The Commission may issue a written complaint if the Commission has reasonable grounds to believe that a person has violated a provision of the Commission Pretreatment Program.

(2) A complaint issued under this subsection shall:

(i) specify the provision of the Commission Pretreatment Program that allegedly has been violated; and

(ii) state the alleged facts that constitute the violation.

(c) (1) After or concurrently with service of a complaint under this section, the Commission may issue an administrative order that requires the person to whom the order is directed to:

(i) take corrective action within a time set in the order;

(ii) file with the Commission a written report about the alleged violation;

(iii) appear at a hearing before the Commission at a time and place the Commission sets to answer the charges in the order; or

(iv) file a written report and appear at a hearing before the Commission at a time and place the Commission sets to answer the charges in the order.

(2) Any order issued under this subsection is effective immediately when it is served.

(d) (1) A complaint or order issued by the Commission under this section shall be served on the person to whom the complaint or order is directed:

(i) personally; or

(ii) by certified mail, return receipt requested to the person's last known address as shown on the Commission's records.

(2) If service is made by certified mail, the person who mails the document shall file with the Commission verified proof of mailing.

(3) If the Commission is unable with due diligence to serve process under paragraph (1) of this subsection, a complaint or order shall be served by publication reasonably tailored to provide actual notice to the person to whom the complaint or order is directed.

(4) An order issued under this section that requires filing of a report, attendance at a hearing, or both shall be served at least 10 days before the earlier of:

(i) the time set for the hearing, if any; or

(ii) the time set for the filing of the report, if any.

(e) (1) Within 10 days after being served with an order under subsection (c)(1)(i) or (ii) of this section, the person served may request in writing a hearing before the Commission.

(2) The Commission shall give notice and hold a hearing under this section in accordance with the Administrative Procedure Act.

(3) In connection with a hearing conducted under this section, the Commission, on its own initiative or at the request of the person to whom the complaint or order is directed, may:

(i) subpoena any person or evidence that is essential for proper consideration at the hearing; and

(ii) order a witness to give evidence.

(4) If a person fails to comply with a subpoena or order issued under this subsection, on petition of the Commission or the person to whom the complaint or order is directed, a circuit court may compel:

(i) obedience to the order or subpoena; or

(ii) testimony or the production of evidence.

(f) The Commission may designate a hearing officer to conduct a hearing required under this section and issue the final order and decision of the Commission.

(g) (1) Unless the person served with a corrective action order under subsection (c)(1)(i) of this section makes a request for a hearing in accordance with subsection (e)(1) of this section, the order is a final order.

(2) If the person served with a corrective action order under subsection (c)(1)(i) of this section makes a request for a hearing in accordance with subsection (e)(1) of this section, the order becomes a final corrective order in accordance with the decision of the Commission following the hearing.

(3) If the Commission issues an order under subsection (c)(1)(ii), (iii), or (iv) of this section, the Commission may not issue an order that requires corrective action until after the later of:

(i) the conclusion of the hearing, if any; or

(ii) the review of the report, if any.

(4) After the time provided in paragraph (3) of this subsection, if the Commission finds that a violation of the Commission Pretreatment Program has occurred, the Commission shall issue an order that requires correction of the violation within the time set in the order.

(5) An order issued under paragraph (4) of this subsection is a final corrective order and the person to whom the order is directed is not entitled to a hearing before the Commission as a result of the order.

(6) If the terms of the final corrective order are violated or if a violation is not corrected within the time set in the order, the Commission shall take action to secure compliance with a final corrective order, including filing suit to require correction of the violation.

(h) In an action for an injunction under § 29–104 of this title to enforce the compliance with or restrain the violation of a provision of the Commission Pretreatment Program or an administrative order issued under this section:

(1) a finding of the Commission after a hearing is prima facie evidence of each fact the Commission determines; and

(2) on a showing that a person is violating or is about to violate a provision of the Commission Pretreatment Program or an administrative order

issued under this subsection, the court shall grant the injunction without requiring a showing of a lack of an adequate remedy at law.

(i) (1) In addition to any other judicial remedy and after an opportunity for a hearing, the Commission may impose a penalty for a violation of a provision of the Commission Pretreatment Program stated in the complaint or an administrative order issued under this section.

(2) The Commission shall provide the person subject to a penalty under paragraph (1) of this subsection a written notice stating that:

(i) the Commission intends to assess a penalty against the person;

(ii) the person may request in writing a hearing before the Commission no later than 10 days after receipt of the notice; and

(iii) the failure to file a written request for a hearing no later than 10 days after receipt of the notice shall be considered a waiver of the right to a hearing.

(3) The penalty imposed on a person under this subsection:

(i) may not exceed $1,000 for each violation or $50,000 total; and

(ii) shall be assessed with consideration given to:

1. the extent to which the existence of the violation was known to but uncorrected by the violator and the extent to which the violator exercised reasonable care;

2. any actual or potential harm to human health or to the environment, including injury to or impairment of the Commission sewage collection and treatment systems or the natural resources of the State;

3. the degree of interference with or injury to the general welfare, health, or property rights of the public;

4. the extent to which the geographic location of the system creates the potential for harm to the environment or to human health or safety;

5. the cost of cleanup and restoration of natural resources;

6. the available technology for controlling, reducing, or eliminating the conditions that caused the violation; and

7. the extent to which the current violation is part of a recurrent pattern of the same or similar type of violation committed by the violator.

(4) Each day a violation continues is a separate violation under this subsection.

(5) A penalty imposed under this subsection is:

(i) payable to the Commission; and

(ii) collectible in any manner provided at law for the collection of debts.

(6) If a person who is liable to pay a penalty imposed under this subsection fails to pay it after demand, the amount, together with interest and any costs that may accrue, shall be:

(i) a lien in favor of the Commission on any property, real or personal, of the person; and

(ii) recorded in the office of the clerk of court for the county in which the property is located.

(j) A person aggrieved by a final decision of the Commission in connection with an order issued under this section may seek judicial review as provided for in the Administrative Procedure Act.

§29–104.

(a) On application of the Commission that is verified by oath of a member or employee of the Commission, the circuit court of a county, by injunction, may:

(1) require the compliance with or restrain the violation of any order, notice, or regulation of the Commission under this division;

(2) require compliance with or restrain the violation or attempted violation of a provision of this division; or

(3) require the entry of an employee or agent of the Commission within a designated area on the private premises and into any building in the sanitary district where the Commission shows a violation of this division.

(b) The court may not require the Commission to post a bond.

(c) If the respondent in a petition for injunction under this section is a nonresident of the State, service of process shall be made in accordance with the Maryland Rules.

(d) As to §§ 27–101(a) and (b), 27–102, and 27–103 of this article:

(1) Montgomery County may apply the provisions of this section if an application is verified by oath of an employee of Montgomery County; and

(2) the court may not require Montgomery County to post a bond.

§29–105.

Except as provided in regulations adopted by the Commission, a person may not use, handle, tamper with, obstruct, interfere with, deface, or destroy any property owned or used by the Commission in the construction or operation of the Commission's systems.

§29–106.

(a) A person may not leave unburied for a period longer than 24 hours a dead animal or fecal matter in the sanitary district or on a watershed from which the Commission gets its water supply.

(b) The Commission may bury a dead animal or fecal matter left unburied more than 24 hours and charge the cost of the burial to the owner or the person on whose property the dead animal or fecal matter was found.

§29–107.

(a) A person who violates any of the following provisions is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 30 days or a fine not exceeding $1,000 or both:

(1) § 17–403 of this article (Commission regulations, except for those specified in subsection (c) of this section and §§ 29–101(b) and 29–102(a) of this title);

(2) Title 22, Subtitle 1 of this article (general obligation bonds and notes);

(3) § 23–102(a) of this article (construction of private or municipal systems);

(4) § 23–202 of this article (service connections);

(5) § 26–103 of this article (tampering with Commission system in Anne Arundel County);

(6) § 26–205 of this article (tampering with Commission system in Howard County);

(7) §§ 27–101(c) and 27–108 of this article (public utilities construction);

(8) § 29–105 of this title (unlawful use of Commission property, except for the regulations governing publicly owned watershed property); or

(9) § 29–106 of this title (leaving dead animals or fecal matter unburied).

(b) A person who violates the provisions of Title 20, Subtitle 2 of this article as they relate to the minority business enterprise utilization program by committing a prohibited act listed under § 14–308 of the State Finance and Procurement Article, on conviction, is subject to the penalties provided under that section.

(c) A person who violates emergency water use restrictions adopted in accordance with § 17–403 of this article is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $500.

(d) A person who violates Title 18, Subtitle 1 of this article (Personnel Management) is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $500.

(e) A person who violates § 19–102(b) of this article (ethics) is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding $1,000 or both.

(f) A person may be convicted of a second or subsequent violation of a provision of this Division II or a regulation adopted under this Division II.