

HOUSE BILL 1110

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By: **Delegates Frick, Arora, Barve, Carr, Cullison, Gilchrist, Hixson, Hucker, A. Kelly, Lee, Luedtke, A. Miller, Reznik, and S. Robinson**
Introduced and read first time: February 11, 2011
Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Electric Company Franchise – Abandonment and Transfer**

3 FOR the purpose of requiring the Public Service Commission to initiate a proceeding
4 to determine whether a certain electric company has abandoned or
5 constructively abandoned its franchise as an electric company in the State;
6 requiring the Commission to consider certain conditions in making a certain
7 determination; deeming that a certain electric company has abandoned or
8 constructively abandoned a certain franchise if the Commission finds that the
9 electric company has demonstrated certain conditions; requiring the
10 Commission to make a certain conclusive finding by a certain date; requiring
11 the Commission to initiate a certain proceeding if the Commission makes a
12 certain finding; requiring the Commission to report to the General Assembly on
13 its findings by a certain date; and generally relating to the abandonment and
14 transfer of an electric company franchise.

15 BY repealing and reenacting, without amendments,
16 Article – Public Utilities
17 Section 5–103, 5–104, 5–202, and 5–303
18 Annotated Code of Maryland
19 (2010 Replacement Volume)

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

22 **Article – Public Utilities**

23 5–103.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 (a) (1) The Commission may require a public service company to continue
2 any service that the public service company renders to the public under any franchise,
3 right, or permit, after any applicable expiration date.

4 (2) Unless authorized by the Commission, a public service company
5 may not discontinue or abandon a service under a franchise, right, or permit.

6 (3) The Commission may authorize a public service company to
7 discontinue or abandon a service under a franchise, right, or permit if the Commission
8 finds that the present or future public convenience and necessity allows the
9 discontinuance or abandonment.

10 (4) Denial of authorization to discontinue or abandon a service under a
11 franchise, right, or permit does not preclude subsequent reapplication.

12 (b) (1) Whenever the Commission authorizes the abandonment or
13 discontinuance of a franchise, right, or permit, as a whole or in part, that involves any
14 service to or from a suburban community, the Commission:

15 (i) shall consider all applications to acquire the franchise, right,
16 or permit to render the service; and

17 (ii) shall grant the application to the best qualified applicant.

18 (2) An abandoned or discontinued right that extends between mid-city
19 and suburban termini shall continue to extend between the mid-city and suburban
20 termini if the abandoned or discontinued right:

21 (i) as acquired by the abandoning or discontinuing public
22 service company or its predecessor, extended from mid-city to suburban termini; or

23 (ii) was operated between the mid-city and suburban termini
24 during most of its existence or for an aggregate of at least 15 years.

25 5-104.

26 (a) The Commission may authorize the acts described in §§ 5-202, 5-203,
27 and 5-205 of this title and § 6-101(a) of this article if it finds that the authorization is
28 consistent with the public convenience and necessity.

29 (b) Authority that the Commission grants under §§ 5-202 and 5-203 of this
30 title does not:

31 (1) revive a lapsed franchise;

32 (2) validate an invalid franchise;

33 (3) enlarge or add to the powers and privileges of a franchise; or

1 (4) waive a forfeiture.

2 5–202.

3 Without prior authorization of the Commission, a public service company may
4 not:

5 (1) assign, lease, or transfer a franchise or a right under a franchise;

6 (2) enter into any agreement or contract that materially affects a
7 franchise or a right under a franchise; or

8 (3) abandon or discontinue the exercise of a franchise or a right as a
9 whole or in part.

10 5–303.

11 A public service company shall furnish equipment, services, and facilities that
12 are safe, adequate, just, reasonable, economical, and efficient, considering the
13 conservation of natural resources and the quality of the environment.

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

15 (1) On or before September 1, 2011, the Public Service Commission
16 shall initiate a proceeding to determine whether Potomac Electric Power Company has
17 abandoned or constructively abandoned its franchise as an electric company in the
18 State.

19 (2) In determining whether Potomac Electric Power Company has
20 abandoned or constructively abandoned its franchise as an electric company, the
21 Commission shall consider if the electric company:

22 (i) has failed to comply with § 5–303 of the Public Utilities
23 Article;

24 (ii) has failed to provide a service that the Commission requires
25 the electric company to provide as a franchisee; and

26 (iii) is presently operating or may operate in the future in a
27 manner that is not consistent with the public convenience and necessity.

28 (3) Potomac Electric Power Company is deemed to have abandoned or
29 constructively abandoned its franchise as an electric company if the Commission finds
30 that the electric company has demonstrated any of the conditions specified in
31 paragraph (2) of this section.

1 (4) On or before December 1, 2011, the Commission shall make a
2 conclusive finding as to whether Potomac Electric Power Company has abandoned or
3 constructively abandoned its franchise as an electric company;

4 (5) If the Commission makes a conclusive finding that Potomac
5 Electric Power Company has abandoned or constructively abandoned its franchise as
6 an electric company, the Commission shall immediately initiate a proceeding to
7 transfer the franchise to another public service company in an orderly manner; and

8 (6) On or before December 15, 2011, the Commission shall report to
9 the General Assembly, in accordance with § 2-1246 of the State Government Article,
10 on its conclusive finding as to whether Potomac Electric Power Company has
11 abandoned or constructively abandoned its franchise as an electric company and the
12 status of any future proceedings with regard to the abandonment of the franchise.

13 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 July 1, 2011.