

SENATE BILL 746

C5

8lr1843

By: **Senator Brochin**

Introduced and read first time: February 1, 2008

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Electric Companies - Removal or Clearing of Trees - Notice and Cease and**
3 **Desist Order**

4 FOR the purpose of prohibiting an electric company from removing or clearing one or
5 more trees on a public utility right-of-way or land except in accordance with
6 certain procedures; requiring an electric company to send a notice to certain
7 property owners in a certain manner; requiring that a copy of the notice be sent
8 to the Public Service Commission and the Consumer Protection Division of the
9 Office of the Attorney General, with certain exceptions; requiring the
10 Commission to adopt certain regulations; allowing a certain owner to submit a
11 certain written request to the Division within a certain time; allowing the
12 Division to issue a cease and desist order under certain circumstances;
13 specifying a certain application of a cease and desist order; requiring the
14 Division to act as a mediator within a certain time to make a certain
15 determination; requiring the Division to determine a mediation plan under
16 certain circumstances; allowing an electric company to appeal a certain
17 mediation plan; and generally relating to a notice of the removal or clearing of
18 trees by electric companies and the issuance of cease and desist orders.

19 BY adding to
20 Article - Public Utility Companies
21 Section 7-309
22 Annotated Code of Maryland
23 (1998 Volume and 2007 Supplement)

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

26 **Article - Public Utility Companies**

27 **7-309.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (A) **IN THIS SECTION, “DIVISION” MEANS THE CONSUMER PROTECTION**
2 **DIVISION OF THE OFFICE OF THE ATTORNEY GENERAL.**

3 (B) **EXCEPT IN ACCORDANCE WITH THIS SECTION, AN ELECTRIC**
4 **COMPANY MAY NOT REMOVE OR CLEAR ONE OR MORE TREES ON A PUBLIC**
5 **UTILITY RIGHT-OF-WAY OR LAND.**

6 (C) **(1) AN ELECTRIC COMPANY SHALL SEND A NOTICE TO EACH**
7 **OWNER OF PROPERTY THAT THE ELECTRIC COMPANY CONSTRUES TO BE IN A**
8 **PUBLIC UTILITY RIGHT-OF-WAY AND ON WHICH THE ELECTRIC COMPANY**
9 **INTENDS TO REMOVE OR CLEAR ONE OR MORE TREES.**

10 (2) **(I) THE NOTICE SHALL BE SENT BY FIRST-CLASS MAIL 30**
11 **DAYS BEFORE THE DATE OF THE ELECTRIC COMPANY’S PROPOSED ACTION.**

12 **(II) A COPY OF THE NOTICE SHALL BE SENT TO THE**
13 **COMMISSION AND THE DIVISION.**

14 (3) **AN ELECTRIC COMPANY IS NOT REQUIRED TO PROVIDE A**
15 **NOTICE:**

16 **(I) IF THE ELECTRIC COMPANY’S PROPOSED ACTION**
17 **INVOLVES ONLY TRIMMING OF TREES;**

18 **(II) IF THE ELECTRIC COMPANY’S PROPOSED ACTION IS**
19 **NECESSARY TO RESTORE INTERRUPTED ELECTRIC SERVICE; OR**

20 **(III) FOR ANY OTHER SITUATION IN WHICH THE COMMISSION**
21 **FINDS THAT PROVIDING THE NOTICE WOULD NOT BE IN THE PUBLIC INTEREST.**

22 (D) **THE COMMISSION SHALL ADOPT REGULATIONS GOVERNING THE**
23 **NOTIFICATION REQUIREMENT UNDER SUBSECTION (C) OF THIS SECTION.**

24 (E) **(1) IF AN OWNER OF A PROPERTY THAT THE ELECTRIC COMPANY**
25 **CONSTRUES TO BE IN A PUBLIC UTILITY RIGHT-OF-WAY AND ON WHICH THE**
26 **ELECTRIC COMPANY INTENDS TO REMOVE OR CLEAR ONE OR MORE TREES HAS**
27 **CONCERNS ABOUT THE ELECTRIC COMPANY’S PROPOSED ACTION, THE OWNER**
28 **MAY SUBMIT A WRITTEN REQUEST TO THE DIVISION, WITHIN 15 DAYS AFTER**
29 **RECEIVING THE NOTICE UNDER SUBSECTION (C) OF THIS SECTION, FOR THE**
30 **OWNER TO HAVE THE OPPORTUNITY TO COMMENT ABOUT THE ELECTRIC**
31 **COMPANY’S PROPOSED ACTION.**

32 **(2) A REQUEST UNDER PARAGRAPH (1) OF THIS SUBSECTION:**

1 **(I) SHALL DESCRIBE THE CONCERNS OF THE OWNER; AND**

2 **(II) MAY INCLUDE A COMPLAINT REQUESTING A CEASE AND**
3 **DESIST ORDER AGAINST THE ELECTRIC COMPANY'S PROPOSED ACTION.**

4 **(3) ON RECEIPT OF A REQUEST UNDER PARAGRAPH (1) OF THIS**
5 **SUBSECTION, THE DIVISION SHALL PROVIDE A COPY OF THE REQUEST TO THE**
6 **COMMISSION AND THE ELECTRIC COMPANY.**

7 **(F) (1) WITHIN 15 DAYS AFTER RECEIVING A COMPLAINT**
8 **REQUESTING A CEASE AND DESIST ORDER UNDER SUBSECTION (E) OF THIS**
9 **SECTION, THE DIVISION MAY ISSUE A CEASE AND DESIST ORDER IF THE**
10 **DIVISION:**

11 **(I) DETERMINES THAT THE CONCERNS DESCRIBED IN THE**
12 **REQUEST UNDER SUBSECTION (E) OF THIS SECTION ARE JUSTIFIED; AND**

13 **(II) AFTER CONSULTING THE COMMISSION, FINDS THAT**
14 **ISSUANCE OF A CEASE AND DESIST ORDER WOULD NOT IMPEDE THE PUBLIC**
15 **INTEREST.**

16 **(2) THE CEASE AND DESIST ORDER ACTS TO RESTRAIN THE**
17 **ELECTRIC COMPANY AND ANY PERSON ACTING ON ITS BEHALF FROM REMOVING**
18 **OR CLEARING TREES IN THE AREA DESCRIBED IN THE REQUEST UNDER**
19 **SUBSECTION (E)(1) OF THIS SECTION FOR A PERIOD OF UP TO 60 DAYS.**

20 **(3) (I) WITHIN 20 DAYS OF ISSUING A CEASE AND DESIST**
21 **ORDER UNDER THIS SUBSECTION, THE DIVISION SHALL ACT AS A MEDIATOR**
22 **BETWEEN THE OWNER AND THE ELECTRIC COMPANY TO DETERMINE IF, UNDER**
23 **AN AGREED MEDIATION PLAN, THE PROPOSED ACTION MAY:**

24 **1. BE REVISED TO MITIGATE THE CONCERN OF THE**
25 **OWNER;**

26 **2. PROCEED WITHOUT ALTERATION; OR**

27 **3. BE BARRED.**

28 **(II) IF A MEDIATION PLAN IS NOT AGREED TO BY THE**
29 **PARTIES BY THE TIME THE CEASE AND DESIST ORDER PERIOD ENDS, THE**
30 **DIVISION SHALL DETERMINE THE MEDIATION PLAN.**

1 (4) **THE DIVISION SHALL SEND A COPY OF THE MEDIATION PLAN**
2 **TO THE COMMISSION.**

3 (5) **AN ELECTRIC COMPANY MAY APPEAL A MEDIATION PLAN**
4 **UNDER PARAGRAPH (3)(II) OF THIS SUBSECTION TO THE COMMISSION.**

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2008.