

(b) A public service company, including any multijurisdictional public service company, may claim a credit against the public service company franchise tax in the amount of \$3 for each ton of Maryland-mined coal that the public service company purchased[;

(1)] in the calendar year in excess of the number of tons of Maryland-mined coal that the public service company purchased in 1986[; or

(2) in the form of energy:

(i) from a cogenerator that is not eligible for the credit under paragraph (1) of this subsection;

(ii) that was produced by Maryland-mined coal that the cogenerator purchased in the calendar year in excess of the amount of Maryland-mined coal that the cogenerator purchased in 1986 and for which the company, including a multijurisdictional public service company, files a statement of oath from the cogenerator that certifies the information substantiating the credit, as required by the Department; and

(iii) if the public service company, including a multijurisdictional public service company, purchased at least as many tons of Maryland-mined coal as in 1986].

[(c) In this section, "cogenerator" means a qualifying cogenerator or qualifying small power producer as determined by the federal Energy Regulatory Commission under the Public Utility Regulatory Policies Act of 1978.]

10-704.1.

(A) IN THIS SECTION, "COGENERATOR" MEANS A QUALIFYING COGENERATOR OR QUALIFYING SMALL POWER PRODUCER AS DETERMINED BY THE FEDERAL ENERGY REGULATORY COMMISSION UNDER THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978.

(B) A COGENERATOR THAT IS NOT SUBJECT TO THE PUBLIC SERVICE COMPANY FRANCHISE TAX MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX IN THE AMOUNT OF \$3 FOR EACH TON OF MARYLAND-MINED COAL THAT THE COGENERATOR PURCHASED IN THE TAXABLE YEAR IN EXCESS OF THE NUMBER OF TONS OF MARYLAND-MINED COAL THAT THE COGENERATOR PURCHASED IN CALENDAR YEAR 1986.

~~(C) -- IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE YEAR EXCEEDS THE STATE INCOME TAX FOR THAT TAXABLE YEAR, A COGENERATOR MAY APPLY THE EXCESS AS A CREDIT AGAINST THE STATE INCOME TAX FOR SUCCEEDING TAXABLE YEARS UNTIL THE EARLIER OF:~~

~~(1) -- THE FULL AMOUNT OF THE EXCESS IS USED, OR~~