
By: **Delegate Sher**

Introduced and read first time: January 30, 2001

Assigned to: Environmental Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 16, 2001

CHAPTER 655

1 AN ACT concerning

2 **On-Site Generated Electricity - ~~Exemption~~ Approval Process**

3 FOR the purpose of ~~exempting certain generating stations that produce only on-site~~
4 ~~generated electricity from the requirement to obtain a certificate of public~~
5 ~~convenience and necessity for certain purposes requiring the Public Service~~
6 Commission to waive the requirement to obtain a certificate of public
7 convenience and necessity under certain circumstances; requiring the
8 Commission to require a person to obtain approval from the Commission before
9 the person may construct a generating station under certain circumstances;
10 requiring an application to contain certain information; requiring the
11 Commission to consider certain criteria, require certain notification, and
12 conduct its review and approval in a certain manner; authorizing the
13 Commission to waive an element of a certain process under certain
14 circumstances; providing that the Department of the Environment may not
15 require a certain permit or registration for the construction of a generating
16 station constructed by a certain person; altering a certain definition; and
17 generally relating to the review and approval of the construction of certain
18 generating stations.

19 BY repealing and reenacting, with amendments,
20 Article - Environment
21 Section 2-402
22 Annotated Code of Maryland
23 (1996 Replacement Volume and 2000 Supplement)

24 BY repealing and reenacting, without amendments,
25 Article - Public Utility Companies

1 Section 7-207(a)
2 Annotated Code of Maryland
3 (1998 Volume and 2000 Supplement)

4 BY repealing and reenacting, with amendments,
5 Article - Public Utility Companies
6 Section 1-101(r) and 7-207(b)
7 Annotated Code of Maryland
8 (1998 Volume and 2000 Supplement)

9 BY adding to
10 Article - Public Utility Companies
11 Section 7-207.1
12 Annotated Code of Maryland
13 (1998 Volume and 2000 Supplement)

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

16 **Article - Environment**

17 2-402.

18 The Department may not require a permit or registration for:

19 (1) Any machinery or equipment that normally is used in a mobile
20 manner;

21 (2) Any boiler used exclusively to operate steam engines for farm and
22 domestic use;

23 (3) The construction of a generating station constructed by [an electric
24 company] A PERSON THAT IS REQUIRED TO OBTAIN A CERTIFICATE OF PUBLIC
25 CONVENIENCE AND NECESSITY UNDER §§ 7-207 AND 7-208 OF THE PUBLIC UTILITY
26 COMPANIES ARTICLE AND REGULATIONS ADOPTED BY THE PUBLIC SERVICE
27 COMMISSION;

28 (4) Actual construction of buildings, apart from any possible emission
29 producing machinery housed in the buildings;

30 (5) Any parking garage; or

31 (6) Any parking lot.

Article - Public Utility Companies

1-101.

(r) "On-site generated electricity" means electricity that:

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

7-207.

(a) (1) In this section and § 7-208 of this subtitle, "construction" means the clearing of land, excavation, or other action that affects the natural environment of a site or route of a bulk power supply facility.

(2) "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.

(b) (1) (I) 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 a generating station.

~~(II) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS PARAGRAPH, A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IS NOT REQUIRED FOR THE CONSTRUCTION OF A GENERATING STATION THAT PRODUCES ONLY ON-SITE GENERATED ELECTRICITY AND GENERATES LESS THAN 100 MEGAWATTS.~~

~~(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.~~

(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) Unless a certificate of public convenience and necessity for the construction is first obtained from the Commission, an electric company 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.

1 7-207.1.

2 (A) THIS SECTION APPLIES TO A PERSON WHO CONSTRUCTS A GENERATING
3 STATION DESIGNED TO PROVIDE ON-SITE GENERATED ELECTRICITY IF:

4 (1) THE CAPACITY OF THE GENERATING STATION DOES NOT EXCEED 70
5 MEGAWATTS; AND

6 (2) THE ELECTRICITY THAT MAY BE EXPORTED FOR SALE FROM THE
7 GENERATING STATION TO THE ELECTRIC SYSTEM IS SOLD ONLY ON THE
8 WHOLESALE MARKET PURSUANT TO AN INTERCONNECTION, OPERATION, AND
9 MAINTENANCE AGREEMENT WITH THE LOCAL ELECTRIC COMPANY.

10 (B) (1) THE COMMISSION SHALL REQUIRE A PERSON THAT IS EXEMPTED
11 FROM THE REQUIREMENT TO OBTAIN A CERTIFICATE OF PUBLIC CONVENIENCE AND
12 NECESSITY TO OBTAIN APPROVAL FROM THE COMMISSION UNDER THIS SECTION
13 BEFORE THE PERSON MAY CONSTRUCT A GENERATING STATION DESCRIBED IN
14 SUBSECTION (A) OF THIS SECTION.

15 (2) AN APPLICATION FOR APPROVAL UNDER THIS SECTION SHALL:

16 (I) BE MADE TO THE COMMISSION IN WRITING ON A FORM
17 ADOPTED BY THE COMMISSION;

18 (II) BE VERIFIED BY OATH OR AFFIRMATION; AND

19 (III) CONTAIN INFORMATION THAT THE COMMISSION REQUIRES,
20 INCLUDING:

21 1. PROOF OF COMPLIANCE WITH ALL APPLICABLE
22 REQUIREMENTS OF THE INDEPENDENT SYSTEM OPERATOR; AND

23 2. A COPY OF AN INTERCONNECTION, OPERATION, AND
24 MAINTENANCE AGREEMENT BETWEEN THE GENERATING STATION AND THE LOCAL
25 ELECTRIC COMPANY.

26 (C) WHEN REVIEWING AN APPLICATION FOR APPROVAL UNDER THIS
27 SECTION, THE COMMISSION SHALL:

28 (1) ENSURE THE SAFETY AND RELIABILITY OF THE ELECTRIC SYSTEM;

29 (2) REQUIRE THE PERSON CONSTRUCTING THE GENERATING STATION
30 TO NOTIFY THE COMMISSION 2 WEEKS BEFORE THE FIRST EXPORT OF ELECTRICITY
31 FROM A GENERATING STATION APPROVED UNDER THIS SECTION; AND

32 (3) CONDUCT ITS REVIEW AND APPROVAL IN AN EXPEDITIOUS MANNER.

33 (D) THE COMMISSION MAY WAIVE AN ELEMENT OF THE APPROVAL PROCESS
34 UNDER THIS SECTION IF THE COMMISSION DETERMINES THAT THE WAIVER IS IN
35 THE PUBLIC INTEREST.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2001.