

CHAPTER 163

(Senate Bill 566)

AN ACT concerning

Public Utility Companies – Generating Stations – Wind

FOR the purpose of exempting a certain person from having to obtain a certificate of public convenience and necessity for a generating station that produces electricity from wind under certain circumstances; requiring a person to obtain approval from the Public Service Commission prior to any construction of a generating station that produces electricity from wind under certain circumstances; requiring the Commission to provide an opportunity for public comment at a public hearing in a certain manner under certain circumstances; requiring the Commission to provide certain notices; requiring the Commission to report on certain matters to certain persons; providing for the construction of this Act; providing for the termination of a portion of this Act; and generally relating to electricity from wind and generating stations.

BY repealing and reenacting, without amendments,
 Article – Public Utility Companies
 Section 7–207(b)
 Annotated Code of Maryland
 (1998 Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
 Article – Public Utility Companies
 Section 7–207.1
 Annotated Code of Maryland
 (1998 Volume and 2006 Supplement)

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

Article – Public Utility Companies

7–207.

(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) 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.

7-207.1.

(a) This section applies to a person who:

(1) constructs a generating station:

(I) designed to provide on-site generated electricity if:

[(i)] **1.** the capacity of the generating station does not exceed 70 megawatts; and

[(ii)] **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;

2. 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; AND

3. 4. THE COMMISSION PROVIDES AN OPPORTUNITY FOR PUBLIC COMMENT AT A PUBLIC HEARING AS PROVIDED IN SUBSECTION (E) OF THIS SECTION; 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.

(b) (1) The Commission shall require a person that is exempted from the requirement to obtain a certificate of public convenience and necessity to obtain approval from the Commission under this section before the person may construct a generating station described in subsection (a) 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.

(c) 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.

(d) 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.

(E) (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 (A)(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.

SECTION 2. AND BE IT FURTHER ENACTED, That on or before February 1 of each year, the Public Service Commission shall report to the Governor and, in accordance with § 2-1246 of the State Government Article, the Senate Finance Committee and the House Economic Matters Committee on:

(1) the number of applications for and the locations of wind-powered generating stations for which approval is sought under § 7-207.1(a)(1)(ii) of the Public Utility Companies Article, as enacted by this Act;

(2) the status of the applications and the extent to which the wind-powered generating stations have been constructed after obtaining approval from the Commission in accordance with this Act; and

(3) the status of any regulatory actions undertaken by other State or local agencies with respect to the wind-powered generating stations.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act may not be construed to limit the regulatory authority of any State or local agency with respect to matters relating to a wind-powered generating station that is exempt from the requirement to obtain a certificate of public convenience and necessity under §§ 7-207 and 7-208 of the Public Utilities Article.

SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007. Section 2 of this Act shall remain effective for a period of 3 years and, at the end of June 30, 2010, with no further action required by the General Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.

Approved by the Governor, April 24, 2007.