

# SENATE BILL 887

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CF HB 1187

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By: ~~Senator Garagiola~~ Senators Garagiola, Astle, Glassman, Kelley, Kittleman, Klausmeier, Mathias, Middleton, Ramirez, and Pugh

Introduced and read first time: February 8, 2013

Assigned to: Rules

Re-referred to: Finance, February 21, 2013

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 20, 2013

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Public Utilities – Solar Photovoltaic Systems**

3 FOR the purpose of ~~specifying the contents of an application for a certificate of public~~  
4 ~~convenience and necessity for a generating station that produces electricity from~~  
5 ~~a certain solar photovoltaic system; altering the process by which the~~  
6 ~~Department of Planning shall forward a certain application for a certificate of~~  
7 ~~public convenience and necessity; exempting a generating station that produces~~  
8 ~~electricity from a certain solar photovoltaic system from a certain requirement~~  
9 ~~to obtain a certificate for public convenience and necessity; requiring a person to~~  
10 file a certain application for approval to construct a certain generating station  
11 at least a certain time before construction commences; requiring a person who  
12 constructs a certain generating station to pay a certain deposit to the Public  
13 Service Commission based on certain criteria; specifying the basis for  
14 calculating a certain deposit; requiring the Maryland Energy Administration, in  
15 consultation with certain persons, to update and post on its Web site the basis  
16 for calculating a certain deposit; requiring the Commission to place certain  
17 deposits into a certain escrow account for a certain period of time; requiring the  
18 Commission to refund certain deposits under certain circumstances; requiring  
19 the Commission to transfer certain money to the Maryland Strategic Energy  
20 Investment Fund under certain circumstances; establishing a process for a  
21 person to receive an extension for a certain project before the Commission  
22 transfers certain money; specifying that the Strategic Energy Investment Fund  
23 may contain certain money transferred from the Commission; and generally

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 relating to solar photovoltaic systems ~~and certificates of public convenience and~~  
2 ~~necessity.~~

3 ~~BY repealing and reenacting, with amendments,~~  
4 ~~Article – Public Utilities~~  
5 ~~Section 7–207(b) and (c) and 7–207.1~~  
6 ~~Annotated Code of Maryland~~  
7 ~~(2010 Replacement Volume and 2012 Supplement)~~

8 BY adding to  
9 Article – Public Utilities  
10 Section 7–207.2  
11 Annotated Code of Maryland  
12 (2010 Replacement Volume and 2012 Supplement)

13 BY repealing and reenacting, without amendments,  
14 Article – State Government  
15 Section 9–20B–05(a), (b), (c), and (d)  
16 Annotated Code of Maryland  
17 (2009 Replacement Volume and 2012 Supplement)

18 BY repealing and reenacting, with amendments,  
19 Article – State Government  
20 Section 9–20B–05(e)  
21 Annotated Code of Maryland  
22 (2009 Replacement Volume and 2012 Supplement)

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

25 **Article – Public Utilities**

26 ~~7–207.~~

27 ~~(b) (1) (i) Unless a certificate of public convenience and necessity for~~  
28 ~~the construction is first obtained from the Commission, a person may not begin~~  
29 ~~construction in the State of:~~

30 ~~1. a generating station; or~~

31 ~~2. a qualified generator lead line.~~

32 ~~(ii) If a person obtains Commission approval for construction~~  
33 ~~under § 7–207.1 of this subtitle, the Commission shall exempt a person from the~~  
34 ~~requirement to obtain a certificate of public convenience and necessity under this~~  
35 ~~section.~~

1                   ~~(iii) Notwithstanding subparagraph (i) of this paragraph, a~~  
2 ~~person may not apply to obtain a certificate of public convenience and necessity for~~  
3 ~~construction of a qualified generator lead line unless:~~

4                   ~~1. at least 90 days before the filing of an application for~~  
5 ~~a certificate of public convenience and necessity, the person had in good faith offered~~  
6 ~~the electric company that owns that portion of the electric grid in Maryland to which~~  
7 ~~the qualified generator lead line would interconnect a full and fair opportunity for the~~  
8 ~~electric company to construct the qualified generator lead line; and~~

9                   ~~2. at any time at least 10 days before the filing of an~~  
10 ~~application for a certificate of public convenience and necessity, the electric company:~~

11                   ~~A. did not accept from the person a proposal or a~~  
12 ~~negotiated version of the proposal under which the electric company would construct~~  
13 ~~the qualified generator lead line; or~~

14                   ~~B. stated in writing that the electric company did not~~  
15 ~~intend to construct the qualified generator lead line.~~

16                   ~~(2) Unless a certificate of public convenience and necessity for the~~  
17 ~~construction is first obtained from the Commission, and the Commission has found~~  
18 ~~that the capacity is necessary to ensure a sufficient supply of electricity to customers~~  
19 ~~in the State, a person may not exercise a right of condemnation in connection with the~~  
20 ~~construction of a generating station.~~

21                   ~~(3) (i) Except as provided in paragraph (4) of this subsection,~~  
22 ~~unless a certificate of public convenience and necessity for the construction is first~~  
23 ~~obtained from the Commission, an electric company may not begin construction of an~~  
24 ~~overhead transmission line that is designed to carry a voltage in excess of 69,000 volts~~  
25 ~~or exercise a right of condemnation with the construction.~~

26                   ~~(ii) For construction related to an existing overhead~~  
27 ~~transmission line, the Commission may waive the requirement in subparagraph (i) of~~  
28 ~~this paragraph for good cause.~~

29                   ~~(4) (i) Except as provided in subparagraph (ii) of this paragraph,~~  
30 ~~for construction related to an existing overhead transmission line designed to carry a~~  
31 ~~voltage in excess of 69,000 volts, the Commission shall waive the requirement to~~  
32 ~~obtain a certificate of public convenience and necessity if the Commission finds that~~  
33 ~~the construction does not:~~

34                   ~~1. require the electric company to obtain new real~~  
35 ~~property or additional rights of way through eminent domain; or~~

36                   ~~2. require larger or higher structures to accommodate;~~

1                                   A. ~~increased voltage; or~~

2                                   B. ~~larger conductors.~~

3                                   (ii) ~~1. For construction related to an existing overhead~~  
 4 ~~transmission line, including repairs, that is necessary to avoid an imminent safety~~  
 5 ~~hazard or reliability risk, an electric company may undertake the necessary~~  
 6 ~~construction.~~

7                                   ~~2. Within 30 days after construction is completed under~~  
 8 ~~subsubparagraph 1 of this subparagraph, an electric company shall file a report with~~  
 9 ~~the Commission describing the work that was completed.~~

10                                   **~~(5) AN APPLICATION FOR A CERTIFICATE OF PUBLIC~~**  
 11 **~~CONVENIENCE AND NECESSITY FOR A GENERATING STATION THAT PRODUCES~~**  
 12 **~~ELECTRICITY FROM A SOLAR PHOTOVOLTAIC SYSTEM THAT IS NOT EXEMPTED~~**  
 13 **~~UNDER § 7-207.1 OF THIS SUBTITLE SHALL INCLUDE:~~**

14                                   **~~(i) THE CAPACITY OF THE PROJECT;~~**

15                                   **~~(ii) THE LOCATION OF THE PROJECT BY ZIP CODE;~~**

16                                   **~~(iii) THE INTERCONNECTION, OPERATION, AND~~**  
 17 **~~MAINTENANCE AGREEMENT;~~**

18                                   **~~(iv) THE ANTICIPATED DATE THAT THE PROJECT WILL BE~~**  
 19 **~~ONLINE;~~**

20                                   **~~(v) THE SOLAR RENEWABLE ENERGY CREDIT MANAGEMENT~~**  
 21 **~~PLAN; AND~~**

22                                   **~~(vi) ANY OTHER INFORMATION THE COMMISSION~~**  
 23 **~~REQUIRES.~~**

24                                   (e) ~~(1) On receipt of an application for a certificate of public convenience~~  
 25 ~~and necessity under this section, the Commission shall provide notice to the~~  
 26 ~~Department of Planning and to all other interested persons.~~

27                                   ~~(2) The Department of Planning shall forward the application:~~

28                                   **~~(i) IF THE APPLICATION PROPOSES A GENERATING~~**  
 29 **~~STATION THAT PRODUCES ELECTRICITY FROM A SOLAR PHOTOVOLTAIC SYSTEM~~**  
 30 **~~THAT IS NOT EXEMPTED UNDER § 7-207.1 OF THIS SUBTITLE, TO THE~~**  
 31 **~~MARYLAND ENERGY ADMINISTRATION, WHICH MAY CHOOSE TO MAKE THE~~**  
 32 **~~APPLICATION AVAILABLE TO THE PUBLIC; OR~~**

1                   ~~(H) IF THE APPLICATION PROPOSES A QUALIFYING~~  
2 ~~GENERATOR LEAD LINE OR A GENERATING STATION THAT PRODUCES~~  
3 ~~ELECTRICITY FROM A SOURCE OTHER THAN A SOURCE UNDER ITEM (I) OF THIS~~  
4 ~~PARAGRAPH, to each appropriate State unit and unit of local government for review,~~  
5 ~~evaluation, and comment regarding the significance of the proposal to State,~~  
6 ~~area-wide, and local plans or programs.~~

7 ~~7-207.1.~~

8           ~~(a) This section applies to a person who:~~

9                   ~~(1) constructs a generating station:~~

10                   ~~(i) designed to provide on-site generated electricity if:~~

11                           ~~1. the capacity of the generating station does not exceed~~  
12 ~~70 megawatts; and~~

13                           ~~2. the electricity that may be exported for sale from the~~  
14 ~~generating station to the electric system is sold only on the wholesale market pursuant~~  
15 ~~to an interconnection, operation, and maintenance agreement with the local electric~~  
16 ~~company; [or]~~

17                   ~~(ii) that produces electricity from wind if:~~

18                           ~~1. the generating station is land-based;~~

19                           ~~2. the capacity of the generating station does not exceed~~  
20 ~~70 megawatts;~~

21                           ~~3. the electricity that may be exported for sale from the~~  
22 ~~generating station to the electric system is sold only on the wholesale market pursuant~~  
23 ~~to an interconnection, operation, and maintenance agreement with the local electric~~  
24 ~~company;~~

25                           ~~4. the Commission provides an opportunity for public~~  
26 ~~comment at a public hearing as provided in subsection (c) of this section; and~~

27                           ~~5. the generating station's wind turbines are not located~~  
28 ~~within a distance from the Patuxent River Naval Air Station that is determined by~~  
29 ~~regulations adopted by the Commission in coordination with the Commander, Naval~~  
30 ~~Air Warfare Center Aircraft Division, provided that the distance requirement under~~  
31 ~~the regulation is:~~

~~A. not greater than is necessary to encompass an area in which utility scale wind turbines could create Doppler radar interference for missions at the Patuxent River Naval Air Station;~~

~~B. not greater than 46 miles, measured from location ~~38.29667N, 76.37668W~~; and~~

~~C. subject to modification if necessary to reflect changes in missions or technology at the Patuxent River Naval Air Station or changes in wind energy technology; or~~

~~(H) THAT PRODUCES ELECTRICITY FROM A SOLAR PHOTOVOLTAIC SYSTEM IF:~~

~~1. THE CAPACITY OF THE GENERATING STATION DOES NOT EXCEED 10 MEGAWATTS; AND~~

~~2. THE ELECTRICITY THAT MAY BE EXPORTED FOR SALE FROM THE GENERATING STATION TO THE ELECTRIC SYSTEM IS SOLD ONLY ON THE WHOLESALE MARKET UNDER AN INTERCONNECTION, OPERATION, AND MAINTENANCE AGREEMENT WITH THE LOCAL ELECTRIC COMPANY; 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~~

1                   ~~(iii) contain information that the Commission requires,~~  
2 ~~including:~~

3                   ~~1. proof of compliance with all applicable requirements~~  
4 ~~of the independent system operator; and~~

5                   ~~2. a copy of an interconnection, operation, and~~  
6 ~~maintenance agreement between the generating station and the local electric~~  
7 ~~company.~~

8           ~~(e) When reviewing an application for approval under this section, the~~  
9 ~~Commission shall:~~

10                   ~~(1) ensure the safety and reliability of the electric system;~~

11                   ~~(2) require the person constructing the generating station to notify the~~  
12 ~~Commission 2 weeks before the first export of electricity from a generating station~~  
13 ~~approved under this section; and~~

14                   ~~(3) conduct its review and approval in an expeditious manner.~~

15           ~~(d) The Commission may waive an element of the approval process under~~  
16 ~~this section if the Commission determines that the waiver is in the public interest.~~

17           ~~(e) (1) The Commission shall provide an opportunity for public comment~~  
18 ~~and hold a public hearing as provided under this subsection on an application for~~  
19 ~~approval made under subsection (a)(1)(ii) of this section in each county and municipal~~  
20 ~~corporation in which any portion of the construction of a generating station is proposed~~  
21 ~~to be located.~~

22                   ~~(2) Upon the request of the governing body of a county or municipal~~  
23 ~~corporation in which any portion of the construction of a generating station is proposed~~  
24 ~~to be located, the Commission shall hold the public hearing jointly with the governing~~  
25 ~~body.~~

26                   ~~(3) Once in each of 2 successive weeks immediately before the hearing~~  
27 ~~date, the Commission, at the expense of the applicant, shall provide weekly notice of~~  
28 ~~the public hearing and opportunity for public comment by advertisement in a~~  
29 ~~newspaper of general circulation in the county or municipal corporation affected by the~~  
30 ~~application.~~

31 **7-207.2.**

32           **(A) (1) THIS ~~SUBSECTION~~ SECTION APPLIES TO A PERSON WHO**  
33 **CONSTRUCTS A GENERATING STATION THAT:**

1                   ~~(I)~~ (1)       HAS THE CAPACITY TO PRODUCE AT LEAST 2  
2 MEGAWATTS ~~AND NOT MORE THAN 10 MEGAWATTS~~ OF ELECTRICITY FROM A  
3 SOLAR PHOTOVOLTAIC SYSTEM; AND

4                   ~~(II)~~ (2)       IS EXEMPTED UNDER § 7-207.1 OF THIS SUBTITLE  
5 FROM THE REQUIREMENT TO OBTAIN A CERTIFICATE OF PUBLIC CONVENIENCE  
6 AND NECESSITY.

7           (B) (1) A PERSON SHALL FILE AN APPLICATION FOR APPROVAL TO  
8 CONSTRUCT A GENERATING STATION UNDER § 7-207.1 OF THIS SUBTITLE AT  
9 LEAST 6 MONTHS BEFORE CONSTRUCTION COMMENCES.

10                   ~~(2) IF A PERSON HAS FILED AN APPLICATION FOR APPROVAL TO~~  
11 ~~CONSTRUCT A GENERATING STATION DESCRIBED IN PARAGRAPH (1) OF THIS~~  
12 ~~SUBSECTION, THE~~ THE COMMISSION SHALL REQUIRE ~~THE PERSON~~ A PERSON  
13 WHO FILES AN APPLICATION FOR APPROVAL TO CONSTRUCT A GENERATING  
14 STATION TO PAY A DEPOSIT OF 1% OF TOTAL INSTALLED COSTS.

15           ~~(B) (1) THIS SUBSECTION APPLIES TO A PERSON WHO CONSTRUCTS A~~  
16 ~~GENERATING STATION THAT:~~

17                   ~~(I) HAS THE CAPACITY TO PRODUCE MORE THAN 10~~  
18 ~~MEGAWATTS OF ELECTRICITY FROM A SOLAR PHOTOVOLTAIC SYSTEM; AND~~

19                   ~~(II) IS NOT EXEMPTED FROM THE REQUIREMENT TO OBTAIN~~  
20 ~~A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.~~

21                   ~~(2) IF A PERSON HAS FILED AN APPLICATION FOR A CERTIFICATE~~  
22 ~~OF PUBLIC CONVENIENCE AND NECESSITY TO CONSTRUCT A GENERATING~~  
23 ~~STATION DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, THE~~  
24 ~~COMMISSION SHALL REQUIRE THE PERSON TO PAY A DEPOSIT OF 2% OF TOTAL~~  
25 ~~INSTALLED COSTS.~~

26           ~~(C) (1) THE AMOUNT OF TOTAL INSTALLED COSTS SHALL BE BASED~~  
27 ~~ON AVERAGE INSTALLED COSTS DATA PROVIDED BY THE MARYLAND ENERGY~~  
28 ~~ADMINISTRATION.~~

29                   ~~(2) THE MARYLAND ENERGY ADMINISTRATION, IN~~  
30 ~~CONSULTATION WITH MEMBERS OF THE SOLAR INDUSTRY, SHALL DEVELOP AND~~  
31 ~~POST AVERAGE INSTALLED COSTS DATA ON ITS WEB SITE ON A QUARTERLY~~  
32 ~~BASIS.~~



1           ~~(3) THE AVERAGE INSTALLED COSTS DATA SHALL BE CLASSIFIED~~  
 2 ~~BASED ON CAPACITY OF A GENERATING STATION TO PRODUCE ELECTRICITY, IN~~  
 3 ~~5 MEGAWATT HOUR INCREMENTS.~~

4           ~~(D)~~ (C) (1) THE COMMISSION SHALL PLACE ANY DEPOSITS  
 5 COLLECTED UNDER ~~SUBSECTIONS (A) AND~~ SUBSECTION (B) OF THIS SECTION  
 6 INTO AN ESCROW ACCOUNT.

7           (2) IF A PERSON ~~BEGINS A PROJECT WITHIN 3 YEARS~~  
 8 DEMONSTRATES TO THE COMMISSION THAT THE PERSON IS FULLY AUTHORIZED  
 9 TO COMMENCE CONSTRUCTION WITHIN 18 MONTHS AFTER FILING AN  
 10 APPLICATION FOR APPROVAL ~~OR AN APPLICATION FOR A CERTIFICATE OF~~  
 11 ~~PUBLIC CONVENIENCE AND NECESSITY~~, THE COMMISSION SHALL REFUND THE  
 12 DEPOSIT, LESS REASONABLE ADMINISTRATIVE COSTS.

13           (3) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH,  
 14 IF A PERSON DOES NOT ~~BEGIN A PROJECT WITHIN 3 YEARS~~ COMMENCE  
 15 CONSTRUCTION WITHIN 18 MONTHS AFTER FILING AN APPLICATION FOR  
 16 APPROVAL ~~OR AN APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE~~  
 17 ~~AND NECESSITY~~, THE MONEY HELD IN THE ESCROW ACCOUNT SHALL BE:

18                           1. DEEMED TO BE ABANDONED; AND

19                           2. TRANSFERRED TO THE MARYLAND STRATEGIC  
 20 ENERGY INVESTMENT FUND UNDER § 9-20B-05 OF THE STATE GOVERNMENT  
 21 ARTICLE, LESS REASONABLE ADMINISTRATIVE COSTS.

22           (II) 1. A PERSON MAY REQUEST AN EXTENSION FOR A  
 23 PROJECT THAT DOES NOT ~~BEGIN WITHIN 3 YEARS~~ COMMENCE CONSTRUCTION  
 24 WITHIN 18 MONTHS AFTER THE FILING OF AN APPLICATION FOR APPROVAL ~~OR~~  
 25 ~~AN APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND~~  
 26 ~~NECESSITY.~~

27                           2. THE COMMISSION MAY GRANT THE REQUEST  
 28 BASED ON FACTORS THE COMMISSION CONSIDERS COMPELLING, INCLUDING  
 29 THE OCCURRENCE OF EVENTS OUTSIDE THE PERSON'S CONTROL.

#### 30                           Article – State Government

31           9-20B-05.

32           (a) There is a Maryland Strategic Energy Investment Fund.

33           (b) The purpose of the Fund is to implement the Strategic Energy  
 34 Investment Program.

1 (c) The Administration shall administer the Fund.

2 (d) (1) The Fund is a special, nonlapsing fund that is not subject to §  
3 7-302 of the State Finance and Procurement Article.

4 (2) The Treasurer shall hold the Fund separately and the Comptroller  
5 shall account for the Fund.

6 (e) The Fund consists of:

7 (1) all of the proceeds from the sale of allowances under § 2-1002(g) of  
8 the Environment Article;

9 (2) money appropriated in the State budget to the Program;

10 (3) repayments and prepayments of principal and interest on loans  
11 made from the Fund;

12 (4) interest and investment earnings on the Fund;

13 (5) compliance fees paid under § 7-705 of the Public Utilities Article;  
14 [and]

15 (6) money received from any public or private source for the benefit of  
16 the Fund; AND

17 (7) **MONEY TRANSFERRED FROM THE PUBLIC SERVICE**  
18 **COMMISSION UNDER § 7-207.2(D)(3) OF THE PUBLIC UTILITIES ARTICLE.**

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
20 October 1, 2013.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.