## Article - Natural Resources

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§3–305.

(a) The expertise of the electric utilities in the basic requirements, including environmental considerations, of a site for power generation and generator lead route is a needed element in site selection. Therefore, for the purposes of insuring adequate power on reasonable schedules while also protecting the quality of the State's environment, site acquisition and generator lead route designation may occur as follows:

(1) Notwithstanding any other provision of this subtitle, any site either already owned or purchased in the future by electric companies shall be included in the inventory of possible and proposed sites.

(2) The Secretary, on the advice of the Secretary of Business and Economic Development, shall acquire in the name of the State a sufficient number of sites to satisfy the expected requirements as submitted by the Director of Planning and the Director of the Maryland Energy Administration, as provided in § 3–304(4) of this subtitle. Site selection shall be based on research findings that show the site is desirable for power plant construction. Following site acquisition, the Secretary and the local governing bodies of the areas through which the potential generator lead routes pass shall designate mutually one or more desirable routes. After designation of a route, each county within which the route is located shall designate the proposed public utility corridor by enactment of an ordinance or by incorporation in its appropriate land use plan. Any investigation to ascertain the suitability of a site for the construction of an electric generating station shall be completed within 2 years of the date the site has been identified. By the end of the 2 year period, the Secretary shall purchase or remove from consideration the site and make public his decision.

(3) Notwithstanding any other provision of this subtitle, the Secretary may acquire a site for an electric company if the Public Service Commission requests the Secretary to purchase a site under § 7–202 of the Public Utilities Article.

(4) If the Secretary decides to dispose of any property acquired by condemnation under this subsection, the Board of Public Works may transfer the property to another unit of the Executive Branch of State government in accordance with § 10–304 of the State Government Article.

(5) If the Secretary decides to dispose of any property acquired by condemnation under this subsection and the property is not transferred in accordance with paragraph (4) of this subsection, the Secretary shall provide the opportunity to purchase the property within 90 days from the date the offer is made:

(i) To the county where the property is located;

(ii) If the county rejects the offer, to the original owner of the property; and

(iii) If the original owner of the property cannot be found or is dead or rejects the offer, to the general public.

(6) For the purposes of this section, "site" means land which is reasonably necessary for a new site or for the expansion of an existing site owned by a utility. "Site" includes land necessary for such ancillary purposes as disposal of solid wastes produced by an electric generating station operating on the site, transmission or cooling water access, or transportation access.

(b) If the other requirements of this subtitle have been satisfied, the Secretary may acquire any site by agreement or condemnation under the condemnation law and pay for them from the Fund. Prior to such acquisition, the Secretary shall hold one or more informational meetings and one public hearing in the legislative district where the proposed site or sites are located. The Secretary holds the property in the name of the State and may not permit its temporary use for any purpose which might logically be expected to impede its prompt availability for power plant siting as and when needed. Temporary uses which the Secretary may authorize may include but are not limited to public recreational facilities, including open space areas, parks, forests and beaches, fish and wildlife refuges and other public recreational uses as authorized within this article. The Secretary may not hold, at any one time, more than eight sites, suitable for either single or multiple power plant siting.

(c) Fifty percent of all revenues the Secretary obtains through temporary use of sites shall be deposited in the Fund. The remaining 50 percent shall be paid to the county in which the site is situated. If the site lies within two or more counties, the 50 percent shall be distributed proportionally according to the area within each county. The Secretary shall pay from the Fund to the county an amount equal to the real estate taxes assessed on the land at the time of acquisition less any funds received by the county for any temporary use of the site.

(d) An electric company as defined in § 1–101 of the Public Utilities Article may request from the Secretary an appropriate site in his possession under the provisions of this subtitle, and the Secretary shall make the site available. The electric utility may purchase the site. The purchase price shall be the fair market value of the site as determined by a committee of three independent qualified real estate appraisers, one of whom is chosen by the Secretary, one by the electric company making the application, and the third by the two appraisers first selected. Each party compensates its own appraiser and bears one–half the cost of the third appraiser. Receipts from the purchase transactions shall be deposited in the Fund.

(e) (1) When property held in the name of the State under this section is not used for the purposes for which it is being held, the Secretary shall provide for the temporary use of the property. In providing for the temporary use of the property, the Secretary shall consider the recommendations of the local governing body of the

subdivision in which the property is located.

(2) (i) The local governing body of the subdivision in which the property is located shall appoint an advisory committee to recommend temporary uses of the property acquired under this section. The advisory committee shall consider, with the assistance of the Conservation Education Council of Maryland, the possibility of using the property for environmental education.

(ii) Upon receipt and evaluation of the advisory committee's recommendations, the local governing body in which the property is located shall submit its recommendations to the Secretary.

(3) (i) The Secretary shall provide the local subdivision in which the property is located up to $25,000 for development of an effective program for approved temporary uses of the property, as authorized in the annual budget.

(ii) The Secretary shall provide the local subdivision in which the property is located up to $10,000 annually for the operation of approved temporary uses, as authorized in the annual budget.

(f) (1) For the purposes of performing the duties required under this subtitle, or, upon written request from an electric company setting out the nature, extent, and duration of the work to be done, the Department, its agents, employees, and contractors may enter upon private property to collect data and otherwise conduct environmental and engineering studies related to potential sites for electric generating facilities, potential corridors for rail and pipeline access to electric generating facilities, and potential overhead transmission lines in excess of 69,000 volts. The studies may include the installation of meteorological testing equipment, biological sampling, soil borings, and installation of test wells.

(2) Entry onto private property as authorized by paragraph (1) shall not be undertaken without prior consent of the property owner. If, after real and bona fide effort, the consent of the property owner cannot be secured, the Department may apply to the circuit court where the property or any part of it is located for an order directing that entry be permitted. "Bona fide effort" shall include either 30 days' advance notice in writing by certified mail, return receipt requested, to the last known address of the property owner or posting notice on the property not less than 30 days in advance, or such other requirements as the court may deem appropriate.

(3) The Department shall reimburse the landowner or lessee who is farming the property for those agricultural products which are either destroyed or damaged by its agents, employees, or contractors. The Department shall be responsible for any other damages that may be incurred as a result of entry on private property as authorized by this section.

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