

**Department of Legislative Services**  
Maryland General Assembly  
2015 Session

**FISCAL AND POLICY NOTE**  
**Revised**

Senate Bill 460

(Senator Feldman, *et al.*)

Finance

Economic Matters

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**Public Utilities - Electricity - Construction of Overhead Transmission Lines**

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This bill authorizes a person – rather than solely an electric company – to obtain a certificate of public convenience and necessity (CPCN) to begin construction of an overhead transmission line that is designed to carry voltage in excess of 69,000 volts or exercise a right of condemnation with the construction, subject to specified conditions. Likewise, statutory requirements and conditions for construction, related to an *existing* overhead transmission line are expanded to include any person – rather than solely an electric company.

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**Fiscal Summary**

**State Effect:** The Public Service Commission (PSC) can handle the bill's requirements with existing budgeted resources.

**Local Effect:** Minimal.

**Small Business Effect:** Minimal.

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**Analysis**

**Bill Summary:** PSC may issue a CPCN for the construction of an overhead transmission line only if the applicant (1) is an electric company or (2) is or, on the start of commercial operation of the overhead transmission line, will be subject to regulation as a public utility by an officer or agency of the United States. However, PSC may not issue a CPCN for the construction of an overhead transmission line in the distribution service territory of an electric company to an applicant other than an electric company if (1) the overhead transmission line is to be located solely within the service territory of that electric company

and (2) the cost of the overhead transmission line is to be paid solely by that electric company and its ratepayers.

For construction related to an overhead transmission line, in addition to other specified requirements in current law, PSC must require as an ongoing condition of the CPCN that the applicant complies with (1) all relevant agreements with the regional transmission operator related to the ongoing operation and maintenance of the overhead transmission line and (2) all obligations imposed by the North America Electric Reliability Council and the Federal Energy Regulatory Commission related to the ongoing operation and maintenance of the overhead transmission line.

As of the effective date of the bill, and until PSC adopts implementing regulations, all PSC regulations, rules, and requirements that apply to the application of an electric company to obtain a CPCN for the construction of an overhead transmission line also apply to any person who may apply to obtain a CPCN for the construction of an overhead transmission line.

**Current Law:** “Electric company” means a person who physically transmits or distributes electricity in the State to a retail electric customer.

#### *New Overhead Transmission Lines*

An electric company (and *only* an electric company) may not begin construction in the State of an overhead transmission line that is designed to carry voltage in excess of 69,000 volts or exercise a right of condemnation with the construction without first obtaining a CPCN from PSC.

#### *Existing Overhead Transmission Lines*

PSC may, for good cause, waive the CPCN requirement for construction related to an existing overhead transmission line, or exercise a right of condemnation with the construction. PSC must waive the CPCN requirement for construction relating to an existing overhead transmission line if PSC finds that the construction does not (1) require the electric company (and *only* an electric company) to obtain new real property or additional rights-of-way through eminent domain or (2) require larger or higher structures to accommodate increased voltage or larger conductors. An electric company may undertake construction related to an existing overhead transmission line, including repairs, necessary to avoid an imminent safety hazard or reliability risk.

#### *Generating Stations and Qualified Generator Lead Lines*

Generally, a person may not begin construction in the State of a generating station or a qualified generator lead line unless a CPCN is first obtained from PSC. However, a person

may not apply to obtain a CPCN for the construction of a qualified generator lead line unless (1) at least 90 days prior to filing the CPCN application, the person first offered the electric company that owns that portion of the electric grid a full and fair opportunity for the electric company to construct the lead line and (2) at any time at least 10 days before filing the CPCN application, the electric company either did not accept the original or negotiated proposal or stated in writing that the electric company did not intend to construct the lead line.

**Background:** In 2009, in Order No. 82892, PSC found that that the Potomac Edison Company could not seek authorization to construct a transmission line on behalf of its nonelectric company affiliate, PATH Allegheny Transmission Company, LLC (PATH). The order found that statute authorizes PSC to issue a CPCN only to an electric company, a “status PATH undeniably lacked,” and that the law did not allow PSC to “ignore or circumvent this requirement” by granting a CPCN to Potomac Edison on behalf of PATH when Potomac Edison would neither construct nor operate the proposed transmission line.

In 2011, in Order No. 83774, PSC denied a petition for an expedited determination that Big Savage LLC is eligible to obtain a CPCN to construct a transmission line in the State. Big Savage wanted to build a transmission line that would exist solely for the purpose of interconnecting an out-of-state wind generating station with the electric grid. The order found that “Big Savage would be eligible to seek authority to build a generating station and its associated transmission lines if the entire project were located in Maryland” but that “under Maryland law, only electric companies are eligible for CPCNs to build stand-alone transmission lines in the State, and Big Savage indisputably lacks that status.”

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 469 (Delegates Jameson and Branch) - Economic Matters.

**Information Source(s):** Public Service Commission, Department of Legislative Services

**Fiscal Note History:** First Reader - February 15, 2015  
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