C5 8lr1715 CF HB 794

By: Senators Jennings, Cassilly, and Norman

Introduced and read first time: February 2, 2018

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning 2 Public Service Commission - Construction of Overhead Transmission Lines -3 Location 4 FOR the purpose of prohibiting the Public Service Commission from issuing a certificate of 5 public convenience and necessity for the construction of an overhead transmission 6 line that is designed to carry a certain voltage unless the overhead transmission line 7 will be located on certain sites or on land subject to a certain easement; authorizing 8 the Commission to issue a certificate of public convenience and necessity for the 9 construction of an overhead transmission line at a location other than certain sites or on land subject to a certain easement under certain circumstances; defining 10 11 certain terms; providing for the application of this Act; and generally relating to the 12 location of overhead transmission lines. 13 BY repealing and reenacting, with amendments, Article – Public Utilities 14 Section 7-207 15 16 Annotated Code of Maryland 17 (2010 Replacement Volume and 2017 Supplement) 18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, 19 That the Laws of Maryland read as follows: 20 Article - Public Utilities 21 7-207.22 In this section and § 7–208 of this subtitle, "construction" means: (a) (1) (i) 23 any physical change at a site, including fabrication, 1. 24 erection, installation, or demolition; or

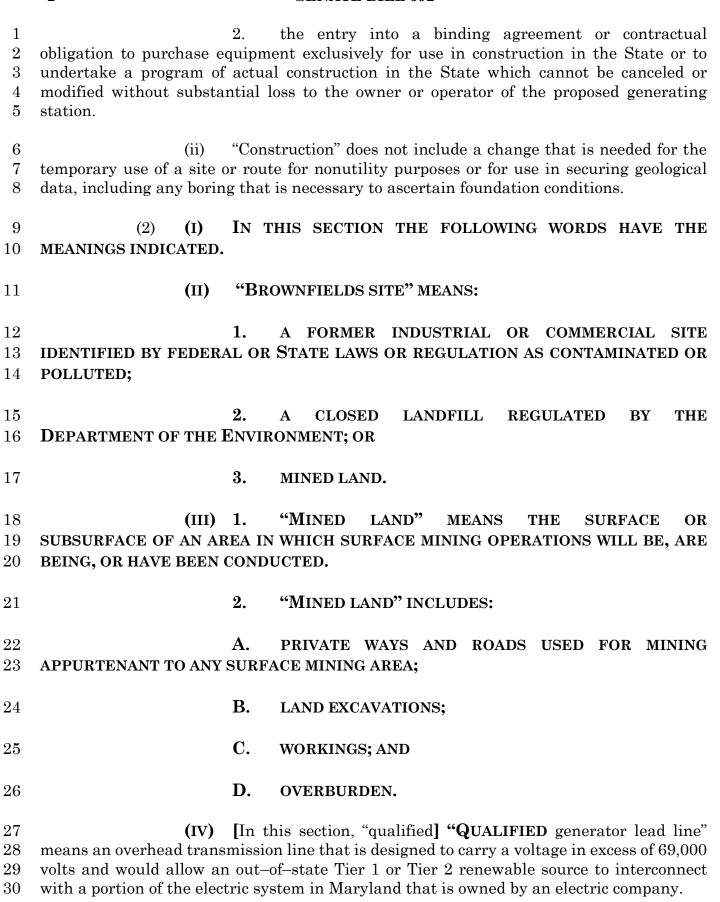


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(b)

(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 1 2the State of: 3 1. a generating station; or 4 2. a qualified generator lead line. 5 (ii) If a person obtains Commission approval for construction under 6 § 7–207.1 of this subtitle, the Commission shall exempt a person from the requirement to 7 obtain a certificate of public convenience and necessity under this section. 8 (iii) Notwithstanding subparagraph (i) of this paragraph, a person 9 may not apply to obtain a certificate of public convenience and necessity for construction of a qualified generator lead line unless: 10 11 1. at least 90 days before the filing of an application for a 12 certificate of public convenience and necessity, the person had in good faith offered the 13 electric company that owns that portion of the electric grid in Maryland to which the 14 qualified generator lead line would interconnect a full and fair opportunity for the electric 15 company to construct the qualified generator lead line; and 16 at any time at least 10 days before the filing of an application for a certificate of public convenience and necessity, the electric company: 17 18 did not accept from the person a proposal or a negotiated A. version of the proposal under which the electric company would construct the qualified 19 20 generator lead line; or 21В. stated in writing that the electric company did not intend 22to construct the qualified generator lead line. 23Unless a certificate of public convenience and necessity for the 24construction is first obtained from the Commission, and the Commission has found that the 25capacity is necessary to ensure a sufficient supply of electricity to customers in the State, a 26 person may not exercise a right of condemnation in connection with the construction of a 27 generating station. 28 Except as provided in paragraph (4) of this subsection, unless a (3) 29 certificate of public convenience and necessity for the construction is first obtained from the 30 Commission, a person may not begin construction of an overhead transmission line that is 31 designed to carry a voltage in excess of 69,000 volts or exercise a right of condemnation 32 with the construction.
- 33 (ii) For construction related to an existing overhead transmission 34 line, the Commission may waive the requirement in subparagraph (i) of this paragraph for 35 good cause.

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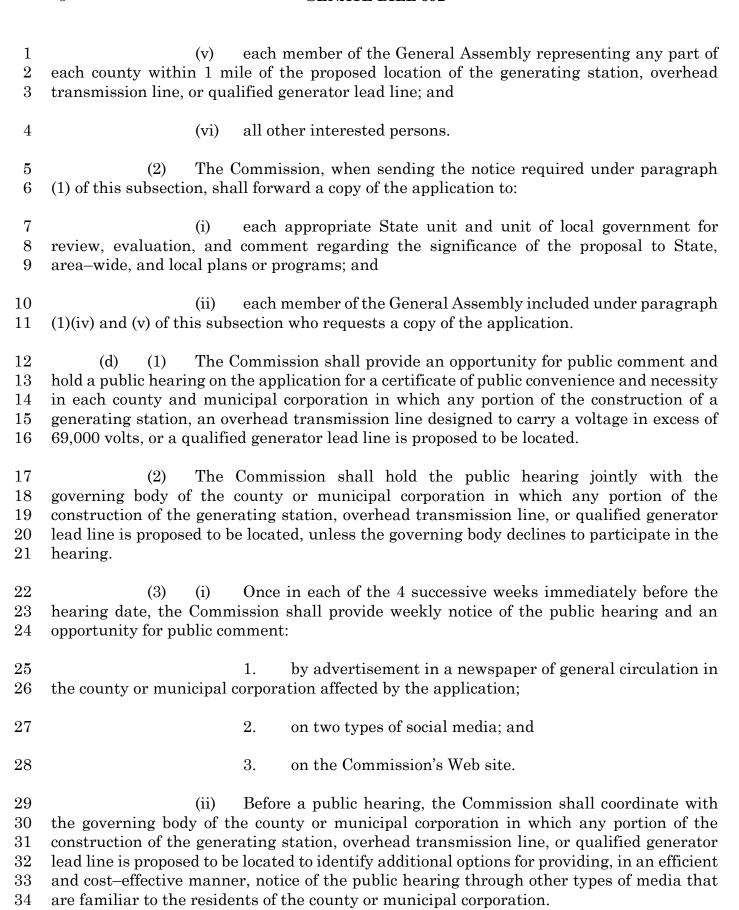
1 2 3 4	(iii) Notwithstanding subparagraph (i) of this paragraph and subject to subparagraph (iv) of this paragraph, the Commission may issue a certificate of public convenience and necessity for the construction of an overhead transmission line only if the applicant for the certificate of public convenience and necessity:
5	1. is an electric company; or
6 7 8	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 an agency of the United States.
9 10 11 12	(iv) The Commission may not issue a certificate of public convenience and necessity for the construction of an overhead transmission line in the electric distribution service territory of an electric company to an applicant other than an electric company if:
13 14	1. the overhead transmission line is to be located solely within the electric distribution service territory of that electric company; and
15 16	2. the cost of the overhead transmission line is to be paid solely by that electric company and its ratepayers.
17 18 19	(v) 1. This subparagraph applies to the construction of an overhead transmission line for which a certificate of public convenience and necessity is required under this section.
20 21 22 23	2. On issuance of a certificate of public convenience and necessity for the construction of an overhead transmission line, a person may acquire by condemnation, in accordance with Title 12 of the Real Property Article, any property or right necessary for the construction or maintenance of the transmission line.
24 25 26 27	(4) (i) Except as provided in subparagraph (ii) of this paragraph, for construction related to an existing overhead transmission line designed to carry a voltage in excess of 69,000 volts, the Commission shall waive the requirement to obtain a certificate of public convenience and necessity if the Commission finds that the construction does not:
28 29	1. require the person to obtain new real property or additional rights—of—way through eminent domain; or
30	2. require larger or higher structures to accommodate:
31	A. increased voltage; or
32	B. larger conductors.
33	(ii) 1. For construction related to an existing overhead

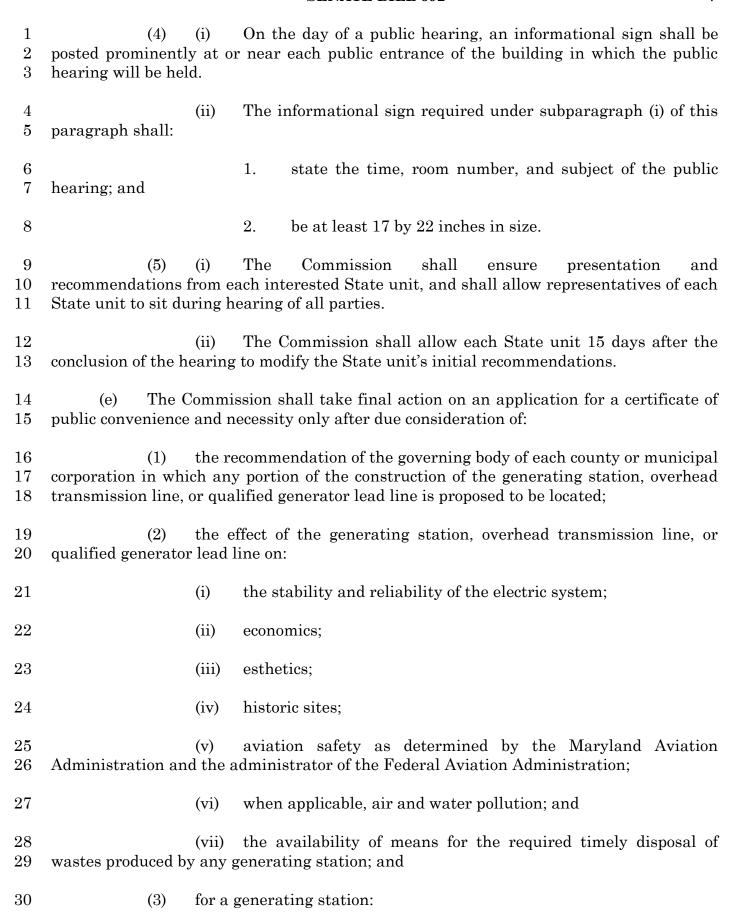
transmission line, including repairs, that is necessary to avoid an imminent safety hazard

- or reliability risk, a person may undertake the necessary construction.

 2. Within 30 days after construction is completed under subsubparagraph 1 of this subparagraph, a person shall file a report with the Commission describing the work that was completed.

 5. (5) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE COMMISSION MAY NOT ISSUE A CERTIFICATE OF PUBLIC
- 6 PARAGRAPH, THE COMMISSION MAY NOT ISSUE A CERTIFICATE OF PUBLIC 7 CONVENIENCE AND NECESSITY FOR THE CONSTRUCTION OF AN OVERHEAD 8 TRANSMISSION LINE THAT IS DESIGNED TO CARRY A VOLTAGE IN EXCESS OF 69,000 9 VOLTS UNLESS THE OVERHEAD TRANSMISSION LINE WILL BE LOCATED ON:
- 1. AN EXISTING BROWNFIELDS SITE;
- 2. PROPERTY THAT IS SUBJECT TO AN EXISTING
- 12 EASEMENT; OR
- 3. A SITE WHERE A TOWER STRUCTURE OR COMPONENTS OF A TOWER STRUCTURE USED TO SUPPORT AN OVERHEAD TRANSMISSION LINE EXIST.
- (II) THE COMMISSION MAY ISSUE A CERTIFICATE OF PUBLIC CONVENIENCE FOR THE CONSTRUCTION OF AN OVERHEAD TRANSMISSION LINE AT A LOCATION OTHER THAN THE LOCATIONS LISTED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH IF THE COMMISSION DETERMINES THAT THE LOCATIONS LISTED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH ARE AT FULL CAPACITY, AS VERIFIED BY AN INDEPENDENT AUTHORITY.
- (c) (1) On receipt of an application for a certificate of public convenience and necessity under this section, the Commission shall provide notice immediately or require the applicant to provide notice immediately of the application to:
- 25 (i) the Department of Planning;
- 26 (ii) the governing body, and if applicable the executive, of each county or municipal corporation in which any portion of the generating station, overhead transmission line, or qualified generator lead line is proposed to be constructed;
- 29 (iii) the governing body, and if applicable the executive, of each 30 county or municipal corporation within 1 mile of the proposed location of the generating 31 station, overhead transmission line, or qualified generator lead line;
- 32 (iv) each member of the General Assembly representing any part of 33 a county in which any portion of the generating station, overhead transmission line, or 34 qualified generator lead line is proposed to be constructed;





- 1 (i) the consistency of the application with the comprehensive plan 2 and zoning of each county or municipal corporation where any portion of the generating 3 station is proposed to be located; and
- 4 (ii) the efforts to resolve any issues presented by a county or 5 municipal corporation where any portion of the generating station is proposed to be located.
- 6 (f) For the construction of an overhead transmission line, in addition to the 7 considerations listed in subsection (e) of this section, the Commission shall:
- 8 (1) take final action on an application for a certificate of public convenience 9 and necessity only after due consideration of the need to meet existing and future demand 10 for electric service; and
- 11 (2) require as an ongoing condition of the certificate of public convenience 12 and necessity that an applicant complies with:
- 13 (i) all relevant agreements with PJM Interconnection, L.L.C., or its 14 successors, related to the ongoing operation and maintenance of the overhead transmission 15 line; and
- 16 (ii) all obligations imposed by the North America Electric Reliability
 17 Council and the Federal Energy Regulatory Commission related to the ongoing operation
 18 and maintenance of the overhead transmission line.
- 19 (g) (1) The Commission may not authorize, and a person may not undertake, 20 the construction of an overhead transmission line that is aligned with and within 1 mile of 21 either end of a public airport runway, unless:
- 22 (i) the Federal Aviation Administration determines that the 23 construction of an overhead transmission line will not constitute a hazard to air navigation; 24 and
- 25 (ii) the Maryland Aviation Administration concurs in that 26 determination.
- 27 (2) A privately owned airport runway shall qualify as a public airport 28 runway under this subsection only if the runway has been on file with the Federal Aviation 29 Administration for at least 2 years as being open to the public without restriction.
- SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively to certificates of public convenience and necessity issued by the Public Service Commission on or after the effective date of this Act and may not be applied or interpreted to have any effect on certificates of public convenience and necessity issued by the Public Service Commission before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June $2\,$ $\,$ 1, 2018.