

# SENATE BILL 761

C5, M4

8lr1697  
CF 8lr3786

---

By: **Senator Jennings**

Introduced and read first time: February 5, 2018

Assigned to: Finance

---

## A BILL ENTITLED

1 AN ACT concerning

2 **Public Utilities – Certificate of Public Convenience and Necessity – Exclusion**  
3 **From Exemption**

4 FOR the purpose of excluding a person from the exemption to obtain a certificate of public  
5 convenience and necessity if the person is constructing a generating station that has  
6 the capacity to produce, when combined with a certain generating station, a certain  
7 amount of electricity from a solar photovoltaic system and is located on certain  
8 agricultural land; and generally relating to a certificate of public convenience and  
9 necessity.

10 BY repealing and reenacting, without amendments,  
11 Article – Public Utilities  
12 Section 7–207(b)(1)(i) and (ii)  
13 Annotated Code of Maryland  
14 (2010 Replacement Volume and 2017 Supplement)

15 BY repealing and reenacting, with amendments,  
16 Article – Public Utilities  
17 Section 7–207.1  
18 Annotated Code of Maryland  
19 (2010 Replacement Volume and 2017 Supplement)

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

22 **Article – Public Utilities**

23 7–207.

24 (b) (1) (i) Unless a certificate of public convenience and necessity for the  
25 construction is first obtained from the Commission, a person may not begin construction in

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 the State of:

- 2 1. a generating station; or
- 3 2. a qualified generator lead line.

4 (ii) If a person obtains Commission approval for construction under  
5 § 7–207.1 of this subtitle, the Commission shall exempt a person from the requirement to  
6 obtain a certificate of public convenience and necessity under this section.

7 7–207.1.

8 (a) **[This] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THIS**  
9 section applies to a person who:

10 (1) constructs a generating station:

11 (i) designed to provide on–site generated electricity if:

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

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

18 (ii) that produces electricity from wind if:

19 1. the generating station is land–based;

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

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

25 4. the Commission provides an opportunity for public  
26 comment at a public hearing as provided in subsection (f) 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 Air  
30 Warfare Center Aircraft Division, provided that the distance requirement under the  
31 regulation is:

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

4                   B.     not greater than 46 miles, measured from location  
5 38.29667N, 76.37668W; and

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

9                   (2)    constructs a generating station if:

10                   (i)    the capacity of the generating station does not exceed 25  
11 megawatts;

12                   (ii)   the electricity that may be exported for sale from the generating  
13 station to the electric system is sold only on the wholesale market pursuant to an  
14 interconnection, operation, and maintenance agreement with the local electric company;  
15 and

16                   (iii)  at least 10% of the electricity generated at the generating station  
17 each year is consumed on-site.

18                   (b)    **THIS SECTION DOES NOT APPLY TO A PERSON WHO CONSTRUCTS A**  
19 **GENERATING STATION:**

20                   **(1)    THAT HAS, WHEN COMBINED WITH THE ELECTRICITY PRODUCED**  
21 **FROM A GENERATING STATION UNDER ITEM (2)(II) OF THIS SUBSECTION, THE**  
22 **CAPACITY TO PRODUCE AT LEAST 2 MEGAWATTS OF ELECTRICITY FROM A SOLAR**  
23 **PHOTOVOLTAIC SYSTEM; AND**

24                   **(2)    ON PRODUCTIVE AGRICULTURAL LAND THAT IS CONTIGUOUS TO**  
25 **OTHER PARCELS OF PRODUCTIVE AGRICULTURAL LAND:**

26                   **(I)    THAT HAVE DIFFERENT OWNERS; AND**

27                   **(II)   WITH GENERATING STATIONS THAT:**

28                   **1.    PRODUCE    ELECTRICITY    FROM    A    SOLAR**  
29 **PHOTOVOLTAIC SYSTEM; AND**

30                   **2.    ARE OWNED BY THE PERSON CONSTRUCTING THE**  
31 **GENERATING STATION.**

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

5           (2) An application for approval under this section shall:

6           (i) be made to the Commission in writing on a form adopted by the  
7 Commission;

8           (ii) be verified by oath or affirmation; and

9           (iii) contain information that the Commission requires, including:

10                   1. proof of compliance with all applicable requirements of the  
11 independent system operator; and

12                   2. a copy of an interconnection, operation, and maintenance  
13 agreement between the generating station and the local electric company.

14           **[(c)] (D)** On receipt of an application for approval under this section, the  
15 Commission shall provide notice immediately or require the applicant to provide notice  
16 immediately of the application to:

17           (1) the governing body of each county or municipal corporation in which  
18 any portion of the generating station is proposed to be constructed;

19           (2) the governing body of each county or municipal corporation within 1  
20 mile of the proposed location of the generating station;

21           (3) each member of the General Assembly representing any part of a county  
22 in which any portion of the generating station is proposed to be constructed; and

23           (4) each member of the General Assembly representing any part of each  
24 county within 1 mile of the proposed location of the generating station.

25           **[(d)] (E)** When reviewing an application for approval under this section, the  
26 Commission shall:

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

28           (2) require the person constructing the generating station to notify the  
29 Commission 2 weeks before the first export of electricity from a generating station approved  
30 under this section; and

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

1            ~~[(e)]~~ **(F)**        Except for the notice required under subsection ~~[(c)]~~ **(D)** of this section,  
2 the Commission may waive an element of the approval process under this section if the  
3 Commission determines that the waiver is in the public interest.

4            ~~[(f)]~~ **(G)**        (1)    The Commission shall provide an opportunity for public  
5 comment and hold a public hearing as provided under this subsection on an application for  
6 approval made under subsection (a)(1)(ii) of this section in each county and municipal  
7 corporation in which any portion of the construction of a generating station is proposed to  
8 be located.

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

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

16            SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
17 October 1, 2018.