

Chapter 282

(House Bill 869)

AN ACT concerning

**Construction of Transmission Lines – Landowners – Notification ~~and~~
Compensation**

FOR the purpose of requiring a public service company or an applicant to provide certain notice to owners of land ~~located within a certain distance of certain proposed and each owner of adjacent land over, on, or under which the applicant proposes to construct~~ transmission lines under certain circumstances; ~~requiring the Public Service Commission to consider, and authorizing the Commission to require, as a condition of the issuance of a certificate of public convenience and necessity, the applicant to compensate owners of land located within a certain distance of a certain proposed transmission line that are directly or indirectly impacted by the transmission line; requiring the Commission to provide certain notice to owners of land located within a certain distance of certain proposed transmission lines under certain circumstances~~ providing for the application of this Act; and generally relating to the construction of transmission lines.

BY repealing and reenacting, with amendments,
Article – Public Utilities
Section 7–204, ~~7–207(b) and (c)~~ 7–207(c), and 7–208(e)
Annotated Code of Maryland
(2010 Replacement Volume and 2017 Supplement)

BY repealing and reenacting, without amendments,
Article – Public Utilities
Section ~~7–207(b) and~~ 7–208(b)
Annotated Code of Maryland
(2010 Replacement Volume and 2017 Supplement)

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

Article – Public Utilities

7–204.

(a) (1) Notwithstanding any other provision of this division, at least 30 days before a hearing, a public service company shall:

~~(I)~~ provide to each owner of land AND EACH OWNER OF ADJACENT LAND, by certified mail, written notice of intent to run a line or similar transmission device over, on, or under the land;~~AND~~

~~(II) PROVIDE TO EACH OWNER OF LAND LOCATED WHOLLY OR PARTLY WITHIN 2,500 FEET OF AN OVERHEAD TRANSMISSION LINE DESIGNED TO CARRY A VOLTAGE IN EXCESS OF 69,000 VOLTS, BY CERTIFIED MAIL, WRITTEN NOTICE OF INTENT TO CONSTRUCT A TRANSMISSION LINE OVER OR ON THE LAND.~~

(2) The public service company shall determine the property owners from the current tax assessment records of the political subdivision in which the property is located.

(b) Unless the failure is willful or deliberate, the failure of a public service company to provide notice does not invalidate a public hearing or require that another hearing take place.

7-207.

(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 the State of:

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

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

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

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

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

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

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

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

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

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

(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:

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 an agency of the United States.

(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:

1. the overhead transmission line is to be located solely within the electric distribution 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.

(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.

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.

~~3. THE COMMISSION SHALL CONSIDER, AND MAY REQUIRE, AS A CONDITION OF THE ISSUANCE OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY, THE APPLICANT TO COMPENSATE OWNERS OF LAND LOCATED WHOLLY OR PARTLY WITHIN 2,500 FEET OF A PROPOSED OVERHEAD TRANSMISSION LINE DESIGNED TO CARRY A VOLTAGE IN EXCESS OF 69,000 VOLTS THAT ARE DIRECTLY OR INDIRECTLY IMPACTED BY THE TRANSMISSION LINE.~~

(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:

1. require the person to obtain new real property or additional rights-of-way through eminent domain; or
2. require larger or higher structures to accommodate:
 - A. increased voltage; or
 - B. larger conductors.

(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 subparagraph 1 of this subparagraph, a person shall file a report with the Commission describing the work that was completed.

(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:

- (i) the Department of Planning;

(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;

(iii) the governing body, and if applicable the executive, of each county or municipal corporation within 1 mile of the proposed location of the generating station, overhead transmission line, or qualified generator lead line;

(iv) each member of the General Assembly representing any part of a county in which any portion of the generating station, overhead transmission line, or qualified generator lead line is proposed to be constructed;

(v) each member of the General Assembly representing any part of each county within 1 mile of the proposed location of the generating station, overhead transmission line, or qualified generator lead line; [and]

(vi) **FOR A PROPOSED OVERHEAD TRANSMISSION LINE, EACH OWNER OF LAND LOCATED WHOLLY OR PARTLY WITHIN 2,500 FEET OF A PROPOSED OVERHEAD TRANSMISSION LINE DESIGNED TO CARRY A VOLTAGE IN EXCESS OF 69,000 VOLTS AND EACH OWNER OF ADJACENT LAND; AND**

(VII) all other interested persons.

(2) The Commission, when sending the notice required under paragraph (1) of this subsection, shall forward a copy of the application to:

(i) each appropriate State unit and unit of local government for review, evaluation, and comment regarding the significance of the proposal to State, area-wide, and local plans or programs; and

(ii) each member of the General Assembly included under paragraph (1)(iv) and (v) of this subsection who requests a copy of the application.

7-208.

(b) This section applies to any person:

(1) constructing a generating station and its associated overhead transmission lines designed to carry a voltage in excess of 69,000 volts;

(2) exercising the right of condemnation in connection with the construction; or

(3) constructing a qualified submerged renewable energy line.

(e) (1) On the receipt of an application under this section, together with any additional information requested under subsection (d)(2) of this section, the Commission shall provide notice to:

(i) ~~FOR A PROPOSED OVERHEAD TRANSMISSION LINE, EACH OWNER OF LAND LOCATED WHOLLY OR PARTLY WITHIN 2,500 FEET OF A PROPOSED OVERHEAD TRANSMISSION LINE AND EACH OWNER OF ADJACENT LAND;~~

(II) all interested persons;

[(ii)] (III) the Department of Agriculture;

[(iii)] (IV) the Department of Commerce;

[(iv)] (V) the Department of the Environment;

[(v)] (VI) the Department of Natural Resources;

[(vi)] (VII) the Department of Transportation;

[(vii)] (VIII) the Department of Planning; and

[(viii)] (IX) the Maryland Energy Administration.

(2) On receipt of an application under this section, and whenever additional information is received under subsection (d)(2) of this section, the Commission shall provide notice immediately or require the applicant to provide notice immediately to:

(i) the governing body of each county or municipal corporation in which any portion of the generating station or the associated overhead transmission lines is proposed to be constructed;

(ii) the governing body of each county or municipal corporation within 1 mile of the proposed location of the generating station or the associated overhead transmission lines;

(iii) each member of the General Assembly representing any part of a county in which any portion of the generating station or the associated overhead transmission lines is proposed to be constructed; ~~and~~

(iv) each member of the General Assembly representing any part of each county within 1 mile of the proposed location of the generating station or the associated overhead transmission lines; ~~AND~~

~~(V) EACH OWNER OF LAND LOCATED WHOLLY OR PARTLY WITHIN 2,500 FEET OF A PROPOSED OVERHEAD TRANSMISSION LINE.~~

(3) The Commission shall hold a public hearing on the application as required by § 7-207 of this subtitle after:

(i) the receipt of any additional information requested under subsection (d)(2) of this section that the Commission considers necessary; and

(ii) any publication of notice the Commission considers to be proper.

(4) (i) At the public hearing, the Commission shall ensure presentation of the information and recommendations of the State units specified in paragraph (1) of this subsection and shall allow the official representative of each unit to sit during hearing of all parties.

(ii) Based on the evidence relating to the unit's areas of concern, the Commission shall allow each unit 15 days after the conclusion of the hearing to modify or affirm the unit's initial recommendations.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any application for a certificate of public convenience and necessity filed before the effective date of this Act.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2018.

Approved by the Governor, April 24, 2018.