

(PRE-FILED)

By: **Chairman, Finance Committee (Departmental - Public Service
Commission)**

Requested: October 26, 2000

Introduced and read first time: January 10, 2001

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Public Service Commission - Certificate of Public Convenience and**
3 **Necessity**

4 FOR the purpose of requiring that any person who constructs a generating station
5 and associated overhead transmission lines follow certain procedures to obtain a
6 certificate of public convenience and necessity from the Public Service
7 Commission; requiring that any person who modifies a generating station
8 obtain a certificate of public convenience and necessity from the Commission;
9 clarifying that the grant of a certificate of public convenience and necessity
10 constitutes registration and a permit to construct; and generally relating to the
11 authority of the Public Service Commission to issue certificates of public
12 convenience and necessity.

13 BY repealing and reenacting, with amendments,
14 Article - Public Utility Companies
15 Section 7-205, 7-206, and 7-208
16 Annotated Code of Maryland
17 (1998 Volume and 2000 Supplement)

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

20 **Article - Public Utility Companies**

21 7-205.

22 (a) (1) In this section, "modification" means a physical alteration of,
23 replacement of, or other change to the facilities at a power plant, or a change in the
24 fuel used by the plant, that could result in a change of the air emissions from the
25 plant or from a generating unit of the plant.

26 (2) "Modification" does not include:

1 (i) routine maintenance or repairs of the facilities of a power plant;
2 or

3 (ii) a change that would result in ambient air quality levels less
4 than or equal to the levels that were a basis for the issuance of a prior certificate of
5 public convenience and necessity under § 7-207 of this subtitle.

6 (b) Subject to subsections (c) through (e) of this section, [an electric company]
7 A PERSON may not commence a modification without the prior approval of the
8 Commission under this title.

9 (c) (1) Unless the Commission orders otherwise, an application for a
10 modification to a power plant shall be filed with the Commission at least 180 days
11 before the date on which the modification is to commence.

12 (2) The applicant for the modification shall submit to the Commission
13 and to the Department of the Environment all information relating to the
14 modification, including:

15 (i) detailed plans and specifications; and

16 (ii) the impact of the modification on air quality.

17 (d) The Commission shall render its decision within 150 days after the day the
18 application is filed.

19 (e) Notwithstanding the provisions of this section, a modification to a power
20 plant that involves the short-term inability to obtain the type of fuel normally used
21 by the plant is subject to Title 2, Subtitle 5 of the Environment Article.

22 7-206.

23 (a) This section applies to the installation of pollution control equipment or a
24 change in the method of operation at a generating station that [an electric company]
25 A PERSON performs in order to comply with Phase II pollution control requirements of
26 the federal Clean Air Act.

27 (b) [An electric company] ANY PERSON that performs an installation or
28 change in operation under subsection (a) of this section shall obtain prior review and
29 approval of the Commission in accordance with:

30 (1) §§ 7-203, 7-207, and 7-208 of this subtitle; and

31 (2) the procedures set forth in § 7-205 of this subtitle and § 2-405 of the
32 Environment Article.

33 7-208.

34 (a) This section applies to [an electric company] ANY PERSON:

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

3 (2) exercising the right of condemnation in connection with the
4 construction.

5 (b) (1) To obtain the certificate of public convenience and necessity required
6 under § 7-207 of this subtitle for construction under this section, [an electric
7 company] A PERSON shall file an application with the Commission at least 2 years
8 before construction of the facility will commence.

9 (2) The Commission may waive the 2-year requirement on a showing of
10 good cause.

11 (c) [An electric company] THE APPLICANT shall:

12 (1) include in an application under this section the information that the
13 Commission requests initially; and

14 (2) furnish any additional information that the Commission requests
15 subsequently.

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

19 (i) all interested persons;

20 (ii) the Department of Agriculture;

21 (iii) the Department of Business and Economic Development;

22 (iv) the Department of the Environment;

23 (v) the Department of Natural Resources;

24 (vi) the Department of Transportation; and

25 (vii) the Department of Planning.

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

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

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

31 (3) (i) At the public hearing, the Commission shall ensure
32 presentation of the information and recommendations of the State units specified in

1 paragraph (1) of this subsection and shall allow the official representative of each unit
2 to sit during hearing of all parties.

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

6 (e) Within 90 days after the conclusion of the hearing on an application under
7 this section, the Commission shall:

8 (1) (i) grant a certificate of public convenience and necessity
9 unconditionally;

10 (ii) grant the certificate, subject to conditions the Commission
11 determines to be appropriate; or

12 (iii) deny the certificate; and

13 (2) notify all interested parties of its decision.

14 (f) (1) The Commission shall include in each certificate it issues under
15 subsection (e) of this section:

16 (i) the requirements of the federal and State environmental laws
17 and standards that are identified by the Department of the Environment; and

18 (ii) the methods and conditions that the Commission determines
19 are appropriate to comply with those environmental laws and standards.

20 (2) The Commission may not adopt any method or condition under
21 paragraph (1)(ii) of this subsection that the Department of the Environment
22 determines is inconsistent with federal and State environmental laws and standards.

23 (g) (1) A decision of the Commission regarding the issuance of a certificate
24 requires the vote of a majority of the members of the Commission.

25 (2) If a majority of the members of the Commission fails to reach
26 agreement on the conditions to be attached to a conditional certificate, the certificate
27 shall be denied.

28 (h) The grant of a certificate by the Commission to [an electric company] ANY
29 PERSON under subsection (e) of this section constitutes:

30 (1) authority for the [company] PERSON to dredge and construct
31 bulkheads in the waters or private wetlands of the State and to appropriate or use the
32 waters; and

33 (2) registration AND A PERMIT TO CONSTRUCT for [the construction of]
34 any facility necessary to control emissions into the air resulting from the operation of
35 the generating station, as required under Title 2, Subtitle 4 of the Environment
36 Article.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
2 effect October 1, 2001.