

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 73

(Chairman, Finance Committee)

(By Request – Departmental – Public Service Commission)

Finance

Economic Matters

**Electric Generation - Certificate of Public Convenience and Necessity -
Construction and Public Notice**

This departmental bill changes the definition of “construction” related to electric generation facilities to any physical change at a site, including fabrication, erection, installation, or demolition or entering into a binding agreement or contractual obligation to purchase equipment, exclusively for use in construction in the State, or to undertake a program of actual construction in the State which cannot be canceled or modified without substantial loss to the owner or operator of the proposed generating station. Thus, a person intending to build a generating station must apply for a certificate of public convenience and necessity (CPCN) prior to signing a binding agreement. The bill also requires an opportunity for public comment and increases the public notice period for the public hearing regarding a filed CPCN application from two to four weeks.

Fiscal Summary

State Effect: The bill’s changes could be handled with existing budgeted resources.

Local Effect: None.

Small Business Effect: The Public Service Commission (PSC) has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment. The attached assessment does not reflect amendments to the bill.

Analysis

Current Law: A person may not begin construction in the State of a generating facility or overhead transmission line carrying more than 69,000 volts unless a CPCN for the construction is first obtained from PSC. Construction is defined as the clearing of land, excavation, or other action that affects the natural environment of a site or route of a bulk power supply facility.

PSC must hold a public hearing on any application for a CPCN. Notice of the hearing must be given for two successive weeks prior to the public hearing by advertising in a newspaper of general circulation in the affected area.

Background: The licensing of new electric power plants in the State is a comprehensive two-part process involving PSC and several other State agencies, *e.g.*, the Department of Natural Resources and the Maryland Department of the Environment. PSC is the lead agency for licensing the siting, construction, and operation of power plants in the State. Companies wishing to obtain a license for a new power plant apply to PSC for a CPCN.

During the CPCN application process, the agencies hold extensive discussions with interested parties such as local governments, environmental organizations, the company proposing to build the power plant, and individual citizens. Concerns are identified and the State agencies incorporate those concerns into their evaluation.

Prior to CPCN being issued for a proposed power plant, the State agencies provide PSC the results of their evaluation and a consolidated set of recommendations as to whether the proposed site is suitable and whether the proposed power plant can be constructed and operated in an acceptable manner. The agencies also provide detailed recommendations on conditions that should be attached to CPCN. These conditions can relate, for example, to minimizing impacts to air, surface and groundwater, aquatic and terrestrial resources, cultural and historic resources, noise, and land use.

PSC has received 13 applications for certificates for both facilities and transmission lines since January 2002. Six have been approved, five are pending, and two were withdrawn.

According to PSC, the Environmental Protection Agency (EPA) has expressed concerns about inconsistencies between federal requirements and State law. EPA requires that a CPCN be obtained prior to execution of binding contracts for construction of a generating facility. EPA also raised concerns regarding public participation requirements, or lack thereof, in State law. This bill is designed to address both of EPA's concerns.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Public Service Commission, Office of People's Counsel,
Department of Legislative Services

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Analysis by: Karen S. Benton

Direct Inquiries to:
(410) 946-5510
(301) 970-5510