
By: **Delegate G. Clagett**

Introduced and read first time: February 24, 2006

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Construction of Electric Generating Stations - Certificate of Public**
3 **Convenience and Necessity**

4 FOR the purpose of requiring the Public Service Commission to take final action on a
5 certain application for a certificate of public convenience and necessity to build
6 a certain generating station designed to provide on-site generated electricity for
7 an electric customer that uses a certain amount of electricity each year and that
8 has a certain capacity within a certain time period under certain circumstances;
9 and generally relating to certificates of public convenience and necessity.

10 BY repealing and reenacting, with amendments,
11 Article - Public Utility Companies
12 Section 7-207
13 Annotated Code of Maryland
14 (1998 Volume and 2005 Supplement)

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

17 **Article - Public Utility Companies**

18 7-207.

19 (a) (1) In this section and § 7-208 of this subtitle, "construction" means:

20 (i) any physical change at a site, including fabrication, erection,
21 installation, or demolition; or

22 (ii) the entry into a binding agreement or contractual obligation to
23 purchase equipment exclusively for use in construction in the State or to undertake a
24 program of actual construction in the State which cannot be canceled or modified
25 without substantial loss to the owner or operator of the proposed generating station.

26 (2) "Construction" does not include a change that is needed for the
27 temporary use of a site or route for nonutility purposes or for use in securing

1 geological data, including any boring that is necessary to ascertain foundation
2 conditions.

3 (b) (1) (i) Unless a certificate of public convenience and necessity for the
4 construction is first obtained from the Commission, a person may not begin
5 construction in the State of a generating station.

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

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

15 (3) Unless a certificate of public convenience and necessity for the
16 construction is first obtained from the Commission, an electric company may not
17 begin construction of an overhead transmission line that is designed to carry a voltage
18 in excess of 69,000 volts or exercise a right of condemnation with the construction.

19 (c) (1) On receipt of an application for a certificate of public convenience and
20 necessity under this section, the Commission shall provide notice to the Department
21 of Planning and to all other interested persons.

22 (2) The Department of Planning shall forward the application to each
23 appropriate State unit and unit of local government for review, evaluation, and
24 comment regarding the significance of the proposal to State, area-wide, and local
25 plans or programs.

26 (d) (1) The Commission shall provide an opportunity for public comment
27 and hold a public hearing on the application for a certificate of public convenience and
28 necessity in each county and municipal corporation in which any portion of the
29 construction of a generating station or of an overhead transmission line designed to
30 carry a voltage in excess of 69,000 volts is proposed to be located.

31 (2) The Commission shall hold the public hearing jointly with the
32 governing body of the county or municipal corporation in which any portion of the
33 construction of the generating station or overhead transmission line is proposed to be
34 located, unless the governing body declines to participate in the hearing.

35 (3) Once in each of the 4 successive weeks immediately before the
36 hearing date, the Commission shall provide weekly notice of the public hearing and
37 an opportunity for public comment by advertisement in a newspaper of general
38 circulation in the county or municipal corporation affected by the application.

1 (4) (i) The Commission shall ensure presentation and
2 recommendations from each interested State unit, and shall allow representatives of
3 each State unit to sit during hearing of all parties.

4 (ii) The Commission shall allow each State unit 15 days after the
5 conclusion of the hearing to modify the State unit's initial recommendations.

6 (e) The Commission shall take final action on an application for a certificate
7 of public convenience and necessity only after due consideration of:

8 (1) the recommendation of the governing body of each county or
9 municipal corporation in which any portion of the construction of the generating
10 station or overhead transmission line is proposed to be located; and

11 (2) the effect of the generating station or overhead transmission line on:

12 (i) the stability and reliability of the electric system;

13 (ii) economics;

14 (iii) esthetics;

15 (iv) historic sites;

16 (v) aviation safety as determined by the Maryland Aviation
17 Administration and the administrator of the Federal Aviation Administration;

18 (vi) when applicable, air and water pollution; and

19 (vii) the availability of means for the required timely disposal of
20 wastes produced by any generating station.

21 (f) For the construction of an overhead transmission line, in addition to the
22 considerations listed in subsection (e) of this section, the Commission shall take final
23 action on an application for a certificate of public convenience and necessity only after
24 due consideration of the need to meet existing and future demand for electric service.

25 (g) (1) The Commission may not authorize, and an electric company may not
26 undertake, the construction of an overhead transmission line that is aligned with and
27 within 1 mile of either end of a public airport runway, unless:

28 (i) the Federal Aviation Administration determines that the
29 construction of an overhead transmission line will not constitute a hazard to air
30 navigation; and

31 (ii) the Maryland Aviation Administration concurs in that
32 determination.

33 (2) A privately owned airport runway shall qualify as a public airport
34 runway under this subsection only if the runway has been on file with the Federal

1 Aviation Administration for at least 2 years as being open to the public without
2 restriction.

3 (H) THE COMMISSION SHALL TAKE FINAL ACTION ON AN APPLICATION FOR A
4 CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY WITHIN 200 DAYS AFTER
5 THE APPLICATION IS FILED WITH THE COMMISSION IF THE APPLICATION IS FOR THE
6 CONSTRUCTION OF A GENERATING STATION:

7 (1) THAT IS DESIGNED TO PROVIDE ELECTRICITY FOR A SINGLE
8 ELECTRIC CUSTOMER THAT USES AT LEAST 1,500,000,000 KILOWATT HOURS OF
9 ELECTRICITY EACH YEAR; AND

10 (2) WITH A GENERATING CAPACITY THAT DOES NOT EXCEED 750
11 MEGAWATTS.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2006.