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By: **Delegate G. Clagett**

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Committee Report: Favorable with amendments

House action: Adopted

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CHAPTER \_\_\_\_\_

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 consider and take  
 5 final action on a certain application for a certificate of public convenience and  
 6 necessity to build a certain generating station designed to provide on-site  
 7 generated electricity for an electric customer that uses a certain amount of  
 8 electricity each year and that has a certain capacity ~~within a certain time period~~  
 9 in an expeditious manner under certain circumstances; providing for the  
 10 termination of this Act; and generally relating to certificates of public  
 11 convenience and necessity.

12 BY repealing and reenacting, with amendments,  
 13 Article - Public Utility Companies  
 14 Section 7-207  
 15 Annotated Code of Maryland  
 16 (1998 Volume and 2005 Supplement)

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

19 **Article - Public Utility Companies**

20 7-207.

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

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

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

7 (2) "Construction" does not include a change that is needed for the  
8 temporary use of a site or route for nonutility purposes or for use in securing  
9 geological data, including any boring that is necessary to ascertain foundation  
10 conditions.

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

14 (ii) If a person obtains Commission approval for construction under  
15 § 7-207.1 of this subtitle, the Commission shall exempt a person from the  
16 requirement to obtain a certificate of public convenience and necessity under this  
17 section.

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

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

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

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

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

39 (2) The Commission shall hold the public hearing jointly with the  
40 governing body of the county or municipal corporation in which any portion of the

1 construction of the generating station or overhead transmission line is proposed to be  
2 located, unless the governing body declines to participate in the hearing.

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

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

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

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

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

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

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

19 (ii) economics;

20 (iii) esthetics;

21 (iv) historic sites;

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

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

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

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

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

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

4 (ii) the Maryland Aviation Administration concurs in that  
5 determination.

6 (2) A privately owned airport runway shall qualify as a public airport  
7 runway under this subsection only if the runway has been on file with the Federal  
8 Aviation Administration for at least 2 years as being open to the public without  
9 restriction.

10 (H) THE COMMISSION SHALL CONSIDER AND TAKE FINAL ACTION ON AN  
11 APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY  
12 WITHIN 200 DAYS AFTER THE APPLICATION IS FILED WITH THE COMMISSION IN AN  
13 EXPEDITIOUS MANNER IF THE APPLICATION IS FOR THE CONSTRUCTION OF A  
14 GENERATING STATION:

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

18 (2) WITH A GENERATING CAPACITY THAT DOES NOT EXCEED 750  
19 MEGAWATTS.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
21 October June 1, 2006. It shall remain effective for a period of 5 years and 1 month,  
22 and, at the end of June 30, 2011, with no further action required by the General  
23 Assembly, this Act shall be abrogated and of no further force and effect.