

SENATE BILL 844

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9lr1676

By: **Senator Middleton**

Introduced and read first time: February 6, 2009

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Public Service Commission – New Electric Generation Facilities – Rate**
3 **Regulation and Contracts**

4 FOR the purpose of requiring the Public Service Commission to assemble and evaluate
5 certain plans regarding generating needs and the means to meet those needs;
6 requiring the Commission to take final action on an application for a certificate
7 of public convenience and necessity only after a certain consideration of a need
8 to meet certain electric services; making a certain finding and declaration
9 regarding a goal of the State to return to a regulated electric market; requiring
10 that a certain new electric generation facility be owned by a certain electric
11 company or consortium of electric companies; allowing a certain new generation
12 facility to be owned by certain entities other than an electric company under
13 certain circumstances; requiring the sale of certain electricity to be offered for
14 sale first to a certain electric company or consortium; providing that the
15 Commission has a certain jurisdiction over a certain electric generation facility;
16 requiring certain persons to enter into a certain contract for the sale of certain
17 electricity; specifying the standards that the Commission must apply in
18 approving a certain contract; requiring the Commission to implement a certain
19 provision of law by regulation or order; defining a certain term; and generally
20 relating to the Public Service Commission and new electric generation facilities
21 under rate regulation or contracts.

22 BY repealing and reenacting, with amendments,
23 Article – Public Utility Companies
24 Section 7–201 and 7–207
25 Annotated Code of Maryland
26 (2008 Replacement Volume and 2008 Supplement)

27 BY adding to
28 Article – Public Utility Companies
29 Section 7–518

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2008 Replacement Volume and 2008 Supplement)

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

5 **Article – Public Utility Companies**

6 7–201.

7 (a) **IN COOPERATION WITH THE SECRETARY OF NATURAL RESOURCES,**
8 **AS PROVIDED UNDER § 3–304 OF THE NATURAL RESOURCES ARTICLE, THE**
9 **COMMISSION SHALL ASSEMBLE AND EVALUATE EACH YEAR THE LONG–RANGE**
10 **PLANS OF THE STATE’S ELECTRIC COMPANIES REGARDING GENERATING NEEDS**
11 **AND THE MEANS TO MEET THOSE NEEDS.**

12 (b) (1) [Annually] **EACH YEAR**, the Chairman of the Commission shall
13 forward to the Secretary of Natural Resources a 10–year plan listing possible and
14 proposed sites, including the associated transmission routes, for the construction of
15 electric plants within the State.

16 (2) (i) The Chairman shall delete from the 10–year plan any site
17 that the Secretary of Natural Resources identifies as unsuitable in accordance with
18 the requirements of § 3–304 of the Natural Resources Article.

19 (ii) The Chairman may include a site deleted from a 10–year
20 plan under subparagraph (i) of this paragraph in a subsequent 10–year plan.

21 (3) The Chairman shall include information in the annual 10–year
22 plan on current and projected efforts by electric companies and the Commission to
23 moderate overall electrical generation demand and peak demand through the electric
24 companies’ promotion of energy conservation by customers and through the electric
25 companies’ use of alternative energy sources, including cogeneration.

26 (4) To the extent that the Commission requires an electric company to
27 report the information described in paragraph (3) of this subsection, a small rural
28 electric cooperative described in § 7–502(a) of this title may satisfy the requirement by
29 submitting to the Commission a copy of the power requirement study that the small
30 rural electric cooperative submits to the rural utilities service.

31 [(b)] (c) (1) The Commission shall evaluate the cost–effectiveness of the
32 investments by electric companies in energy conservation to reduce electrical demand
33 and in renewable energy sources to help meet electrical demand.

34 (2) The evaluation of investments shall include:

1 (i) the electric companies' promotion and conduct of a building
2 audit and weatherization program, including low-interest or no-interest electric
3 company financing for the installation of energy conservation materials and renewable
4 energy devices;

5 (ii) utilization of renewable energy sources;

6 (iii) promotion and utilization of electricity from cogeneration
7 and wastes; and

8 (iv) widespread public promotion of energy conservation
9 programs.

10 7-207.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (1) the recommendation of the governing body of each county or
29 municipal corporation in which any portion of the construction of the generating
30 station or overhead transmission line is proposed to be located; [and]

31 **(2) THE NEED TO MEET EXISTING AND FUTURE DEMAND FOR**
32 **ELECTRIC SERVICES; AND**

33 [(2)] (3) the effect of the generating station or overhead transmission
34 line on:

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

- 1 (ii) economics;
- 2 (iii) esthetics;
- 3 (iv) historic sites;
- 4 (v) aviation safety as determined by the Maryland Aviation
5 Administration and the administrator of the Federal Aviation Administration;
- 6 (vi) when applicable, air and water pollution; and
- 7 (vii) the availability of means for the required timely disposal of
8 wastes produced by any generating station.

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

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

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

19 (ii) the Maryland Aviation Administration concurs in that
20 determination.

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

25 (h) The Commission shall consider and take final action on an application for
26 a certificate of public convenience and necessity in an expeditious manner if the
27 application is for the construction of a generating station:

28 (1) that is designed to provide electricity for a single electric customer
29 that uses at least 1,500,000,000 kilowatt hours of electricity each year; and

30 (2) with a generating capacity that does not exceed 750 megawatts.

31 **7-518.**

1 **2. A PARENT OR AN AFFILIATE OF AN ELECTRIC**
2 **COMPANY; OR**

3 **3. ANY COMBINATION OF AN ELECTRICITY**
4 **SUPPLIER, A PARENT OR AN AFFILIATE OF AN ELECTRIC COMPANY, AN**
5 **ELECTRIC COMPANY IN THE STATE, OR A CONSORTIUM.**

6 **(3) ELECTRICITY GENERATED FROM AN ELECTRIC GENERATION**
7 **FACILITY:**

8 **(I) SHALL BE OFFERED FOR SALE FIRST TO AN ELECTRIC**
9 **COMPANY IN THE STATE OR A CONSORTIUM; AND**

10 **(II) IF NOT PURCHASED, DIRECTLY OR THROUGH A**
11 **CONTRACT, BY AN ELECTRIC COMPANY IN THE STATE OR A CONSORTIUM, MAY**
12 **THEN BE SOLD TO THE ELECTRIC GRID.**

13 **(4) IN ACCORDANCE WITH TITLE 4 OF THIS ARTICLE, THE**
14 **COMMISSION HAS JURISDICTION OVER A GENERATION FACILITY OR SHARE OF A**
15 **GENERATION FACILITY, INCLUDING THE SALE OF ELECTRICITY GENERATED**
16 **FROM THE ELECTRIC GENERATION FACILITY OR SHARE OF GENERATION**
17 **FACILITY, THAT IS OWNED BY AN ELECTRIC COMPANY IN THE STATE OR A**
18 **CONSORTIUM.**

19 **(5) (I) AN ELECTRICITY SUPPLIER OR A PARENT OR AN**
20 **AFFILIATE OF AN ELECTRIC COMPANY UNDER PARAGRAPH (2)(II) OF THIS**
21 **SUBSECTION SHALL ENTER INTO A CONTRACT WITH AN ELECTRIC COMPANY IN**
22 **THE STATE OR A CONSORTIUM, AS APPROVED BY THE COMMISSION, FOR THE**
23 **SALE OF ELECTRICITY GENERATED FROM THE ELECTRIC GENERATION FACILITY**
24 **OR SHARE OF THE GENERATION FACILITY THAT IS OWNED BY THE ELECTRICITY**
25 **SUPPLIER OR THE PARENT OR THE AFFILIATE OF AN ELECTRIC COMPANY.**

26 **(II) IN APPROVING A CONTRACT UNDER SUBPARAGRAPH (I)**
27 **OF THIS PARAGRAPH, THE COMMISSION SHALL REQUIRE THAT THE STANDARDS**
28 **UNDER TITLE 4 OF THIS ARTICLE APPLY TO THE SALE OF ELECTRICITY UNDER**
29 **THE CONTRACT.**

30 **(E) THE COMMISSION SHALL BY REGULATION OR, NOTWITHSTANDING**
31 **TITLE 10, SUBTITLE 1 OF THE STATE GOVERNMENT ARTICLE, BY ORDER**
32 **ADOPT PROCEDURES TO IMPLEMENT THIS SECTION.**

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
34 July 1, 2009.