SB 1094

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

Senate Bill 1094 (Senators Mooney and Brinkley)
Rules

Public Service Commission - Restriction on the Construction of Overhead Transmission Lines

This bill prohibits the Public Service Commission (PSC) from authorizing, and an electric company from exercising, a right of condemnation in connection with the construction of an overhead transmission line with a capacity in excess of 69,000 volts if the electric company is owned in whole or in part by one or more corporations or other business entities that are not electric companies or do not have authority to control the day-to-day business decisions of the electric company. This restriction does not limit an electric company owned by a holding company that is not an electric company from undertaking or exercising a right of condemnation in connection with the construction of an overhead transmission line.

The bill takes effect June 1, 2010, and applies retroactively to affect any application filed or pending on or after February 1, 2010, for a certificate of public convenience and necessity (CPCN).

Fiscal Summary

State Effect: PSC can implement the bill with existing budgeted resources.

Local Effect: None.

Small Business Effect: None. Electric companies and their affiliates are not considered small businesses.

Analysis

Current Law: An electric company may not begin construction of an overhead electric transmission line designed to carry in excess of 69,000 volts or excise a right of condemnation in connection with the construction without first obtaining a CPCN from PSC. An "electric company" means any person who physically transmits or distributes electricity in the State to a retail electric customer. Through docketed case number 9223, PSC is investigating the definition of "electric company" in the context of an application for a CPCN to determine acceptable corporate structure.

The Electric Customer Choice and Competition Act of 1999 (Chapters 3 and 4) facilitated the restructuring of the electric utility industry in Maryland. The Act required electric companies to divest themselves of generating facilities or to create a structural separation between the unregulated generation of electricity and the regulated distribution and transmission of electricity. Some electric companies created separate entities to operate unregulated and regulated businesses under a single holding company structure and other companies divested from generation facilities.

The Federal Energy Regulatory Commission regulates transmission and wholesale sales of electricity in interstate commerce, protects the reliability of the high voltage interstate transmission system through mandatory reliability standards, and reviews the siting application for electric transmission projects under limited circumstances.

Background: PJM Interconnection is the regional transmission organization to which Maryland belongs. Through the PJM Regional Transmission Expansion Plan, PJM plans necessary upgrades to transmission facilities within 13 states and the District of Columbia in order to maintain system reliability. Siting of transmission lines in Maryland must be approved by PSC with input from State agencies, local governments, environmental groups, and other interested parties through the CPCN process.

Three major transmission lines are identified in the PJM planning queue and planned to serve central and eastern Maryland – the TrAIL, PATH, and MAPP lines. The TrAIL line is planned to run as a 500 kilovolt (kV) facility from southern Pennsylvania through West Virginia to Loudoun County, Virginia, and is now under construction with a scheduled in-service date of 2011. The PATH line is planned at a 765 kV level to run from the John Amos substation station in West Virginia to a potential substation near Kemptown, Maryland. As a result of PJM reassessment of transmission needs, the MAPP line, originally planned to run from Virginia through Maryland and up to southern New Jersey, has been scaled back to run only from Virginia to the Eastern Shore, terminating at Indian River, Delaware.

The bill has the potential to impede the construction of the PATH transmission line. However, Legislative Services advises that the actual impact of the bill is unclear since PSC is currently considering the allowable corporate structure of an applicant who seeks a CPCN to construct a high-voltage transmission line.

In May 2009, Potomac Edison Company (DBA Allegheny Power) submitted a CPCN application to begin construction of the PATH transmission line on behalf of its affiliate, PATH Allegheny Transmission Company, LLC (Case Number 9198). In September 2009, PSC denied the application on the grounds that State law requires PSC to award a CPCN to an "electric company." PSC stated that an electric company may not make an application on behalf of an affiliate if it will neither construct nor operate the proposed transmission line.

In December 2009, Potomac Edison filed a second application for a CPCN specifying that as an electric company in Maryland it will construct, operate, and maintain the PATH project in Maryland, but that PATH Allegheny Maryland Transmission Company LLC will own and finance the construction of the project (Case Number 9223). Subsequently, Potomac Edison requested PSC to delay consideration of the "need-based" part of the application until Potomac Edison supplements the "need" testimony based on PJM's 2010 Regional Transmission Expansion Plan analysis. Potomac Edison indicated that it expects to supplement the testimony in late June 2010. PSC is currently considering whether the corporate structure specified in the application conforms to ownership requirements specified in State law, as well as other preliminary legal issues.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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