

# SENATE BILL 691

C5

EMERGENCY BILL

11r2438  
CF HB 590

---

By: **Senator Middleton**

Introduced and read first time: February 4, 2011

Assigned to: Finance

---

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 15, 2011

---

## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Public Service Commission – Certificate of Public Convenience and**  
3 **Necessity – Renewable Source Generator Lead Line**

4 FOR the purpose of requiring a person to obtain a certificate of public convenience and  
5 necessity prior to beginning construction in the State of a qualified generator  
6 lead line; ~~prohibiting a person from beginning applying for a certificate of public~~  
7 convenience and necessity for the construction of a qualified generator lead line  
8 under certain circumstances; requiring the Public Service Commission to  
9 provide an opportunity for public comment and hold a certain public hearing on  
10 a certain application; requiring the Commission to take a final action on a  
11 certain application only under certain circumstances; defining a certain term;  
12 making this Act an emergency measure; and generally relating to a certificate of  
13 public convenience and necessity for a renewable source generator lead line.

14 BY repealing and reenacting, with amendments,  
15 Article – Public Utilities  
16 Section 7–207(a), (b), (d), and (e)  
17 Annotated Code of Maryland  
18 (2010 Replacement Volume)

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

21 **Article – Public Utilities**

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 7-207.

2 (a) (1) (I) In this section and § 7-208 of this subtitle, “construction”  
3 means:

4 [(i)] 1. any physical change at a site, including fabrication,  
5 erection, installation, or demolition; or

6 [(ii)] 2. the entry into a binding agreement or contractual  
7 obligation to purchase equipment exclusively for use in construction in the State or to  
8 undertake a program of actual construction in the State which cannot be canceled or  
9 modified without substantial loss to the owner or operator of the proposed generating  
10 station.

11 [(2)] (II) “Construction” does not include a change that is needed for  
12 the temporary use of a site or route for nonutility purposes or for use in securing  
13 geological data, including any boring that is necessary to ascertain foundation  
14 conditions.

15 (2) IN THIS SECTION, “QUALIFIED GENERATOR LEAD LINE”  
16 MEANS AN OVERHEAD TRANSMISSION LINE THAT IS DESIGNED TO CARRY A  
17 VOLTAGE IN EXCESS OF 69,000 VOLTS AND WOULD ALLOW AN OUT-OF-STATE  
18 TIER 1 OR TIER 2 RENEWABLE SOURCE TO INTERCONNECT WITH A PORTION OF  
19 THE ELECTRIC SYSTEM IN MARYLAND THAT IS OWNED BY AN ELECTRIC  
20 COMPANY.

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:

24 1. a generating station; OR

25 2. A QUALIFIED GENERATOR LEAD LINE.

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

30 (III) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS  
31 PARAGRAPH, A PERSON MAY NOT ~~BEGIN~~ APPLY TO OBTAIN A CERTIFICATE OF  
32 PUBLIC CONVENIENCE AND NECESSITY FOR CONSTRUCTION OF A QUALIFIED  
33 GENERATOR LEAD LINE UNLESS:

34 1. ~~WITHIN 10 DAYS AFTER~~ AT LEAST 90 DAYS  
35 BEFORE THE FILING OF AN APPLICATION FOR A CERTIFICATE OF PUBLIC

1 CONVENIENCE AND NECESSITY, THE PERSON HAD IN GOOD FAITH OFFERED THE  
 2 ELECTRIC COMPANY THAT OWNS THAT PORTION OF THE ELECTRIC GRID IN  
 3 MARYLAND TO WHICH THE QUALIFIED GENERATOR LEAD LINE WOULD  
 4 INTERCONNECT A FULL AND FAIR OPPORTUNITY FOR THE ELECTRIC COMPANY  
 5 TO CONSTRUCT THE QUALIFIED GENERATOR LEAD LINE; AND

6 2. ~~WITHIN 90 DAYS AFTER FILING~~ AT ANY TIME AT  
 7 LEAST 10 DAYS BEFORE THE FILING OF AN APPLICATION FOR A CERTIFICATE OF  
 8 PUBLIC CONVENIENCE AND NECESSITY, THE ELECTRIC COMPANY:

9 A. DID NOT ACCEPT FROM THE PERSON A PROPOSAL  
 10 OR A NEGOTIATED VERSION OF THE PROPOSAL UNDER WHICH THE ELECTRIC  
 11 COMPANY WOULD CONSTRUCT THE QUALIFIED GENERATOR LEAD LINE; OR

12 B. STATED IN WRITING THAT THE ELECTRIC  
 13 COMPANY ~~HAD NO OBJECTION TO THE PERSON CONSTRUCTING~~ DID NOT INTEND  
 14 TO CONSTRUCT THE QUALIFIED GENERATOR LEAD LINE.

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

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

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

30 (2) The Commission shall hold the public hearing jointly with the  
 31 governing body of the county or municipal corporation in which any portion of the  
 32 construction of the generating station, [or] overhead transmission line, **OR**  
 33 **QUALIFIED GENERATOR LEAD LINE** is proposed to be located, unless the governing  
 34 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 an  
 37 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  
5 the 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, **OR QUALIFIED GENERATOR LEAD LINE** is  
11 proposed to be located; and

12           (2) the effect of the generating station, [or] overhead transmission  
13 line, **OR QUALIFIED GENERATOR LEAD LINE** on:

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

15           (ii) economics;

16           (iii) esthetics;

17           (iv) historic sites;

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

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

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

23           SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency  
24 measure, is necessary for the immediate preservation of the public health or safety,  
25 has been passed by a yea and nay vote supported by three-fifths of all the members  
26 elected to each of the two Houses of the General Assembly, and shall take effect from  
27 the date it is enacted.