

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

Senate Bill 314
Finance

(Senator Edwards)

Public Utility Companies - Generating Stations - Wind

This bill prohibits the Public Service Commission (PSC) from exempting a wind-powered generating station from the certificate of public convenience and necessity (CPCN) requirement unless the facility is built for on-site consumption.

The bill takes effect June 1, 2011.

Fiscal Summary

State Effect: Since it is assumed that the bill will apply in a limited number of cases, State finances are not materially affected.

Local Effect: Local government finances are not directly affected by the bill.

Small Business Effect: Potential meaningful.

Analysis

Current Law: A person may not begin construction of a generating station in the State without obtaining a CPCN from PSC. Pursuant to Chapter 163 of 2007, wind-power generating facilities with a capacity under 70 megawatts may request an exemption from CPCN requirements. PSC must grant an exemption from CPCN requirements as long as certain conditions are met: (1) the wind-powered facility is land-based; (2) the generating capacity is 70 megawatts or less; (3) the excess electricity is sold on the wholesale market pursuant to an interconnection, operation, and maintenance agreement with the local electric company; and (4) PSC provides an opportunity for public comment at a public hearing. Additionally, a person may request an exemption from the CPCN

requirement if the generating station is designed to provide on-site electricity and the capacity does not exceed 70 megawatts.

Background:

Certificate of Public Convenience and Necessity (CPCN)

The licensing of new electric power plants in Maryland is a comprehensive two-part process involving PSC and several other State agencies, *e.g.*, the Department of Natural Resources and the Maryland Department of the Environment. PSC is the lead agency for licensing the siting, construction, and operation of power plants in the State.

During the CPCN application process, the agencies hold extensive discussions with interested parties such as local governments, environmental organizations, the company proposing to build the power plant, and individual citizens. Concerns are identified and the State agencies incorporate those concerns into their evaluation.

Prior to a CPCN being issued for a proposed power plant, the State agencies provide PSC the results of their evaluation and a consolidated set of recommendations as to whether the proposed site is suitable and whether the proposed power plant can be constructed and operated in an acceptable manner. The agencies also provide detailed recommendations on conditions that should be attached to the CPCN. These conditions can relate, for example, to minimizing impacts to air, surface and groundwater, aquatic and terrestrial resources, cultural and historic resources, noise, and land use.

Commercial Wind Facilities in Maryland

In 2010 the Criterion and Roth Rock commercial wind facilities completed construction and began testing equipment. Both of these facilities submitted an application to PSC seeking an exemption from the CPCN requirement and were granted that exemption prior to construction. **Exhibit 1** shows these facilities and other facilities that have been proposed. Development of proposed wind-generating stations located in Allegany County has been suspended due to a county ordinance restricting commercial wind turbines.

As noted above, wind facilities with less than 70 megawatts may apply for a CPCN or may request an exemption from CPCN requirements. If PSC grants an exemption from CPCN requirements, local zoning ordinances may restrict wind development. If a facility is granted a CPCN, wind facilities may be constructed as licensed.

Exhibit 1
Completed and Proposed Wind Power Projects in Maryland

<u>Project</u>	<u>Developer</u>	<u>Proposed Size (MW)</u>	<u>County</u>	<u>PSC Case Number</u>	<u>Status</u>
Criterion	Constellation	70	Garrett	8938	Construction completed
Savage Mountain	U.S. Windforce	40	Garrett & Allegany	8939	CPCN Expired
Roth Rock	Synergics	50	Garrett	9191	Construction completed
Dans Mountain	U.S. Windforce	70	Allegany	9164	Project on hold

MW: megawatts

Source: Maryland Power Plant Research Program, Public Service Commission, Department of Legislative Services

State Fiscal Effect: Requiring commercial wind facilities to obtain a CPCN increases the requirements of multiple State agencies and local governments who participate in the CPCN process. Due to the limited number of applications for an exemption from CPCN requirements, however, State finances are not materially affected.

Small Business Effect: Requiring wind facilities with a capacity under 70 megawatts to obtain a CPCN will increase the time and complexity of obtaining State approval to begin construction on a generating facility. As a result, small businesses involved in the development and construction of wind projects incur additional costs.

Additional Information

Prior Introductions: SB 583 of 2009, a similar bill, received a hearing in the Senate Finance Committee, but no further action was taken. Its cross file, HB 605, received an unfavorable report from the House Economic Matters Committee.

Cross File: None.

Information Source(s): Maryland Department of the Environment, Department of Natural Resources, Office of People's Counsel, Public Service Commission, Department of Legislative Services

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Analysis by: Erik P. Timme

Direct Inquiries to:
(410) 946-5510
(301) 970-5510