

HOUSE BILL 1427

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CF SB 1073

By: **Delegates Jameson and Schuh**

Introduced and read first time: March 1, 2012

Assigned to: Rules and Executive Nominations

Re-referred to: Economic Matters, March 9, 2012

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 21, 2012

CHAPTER _____

1 AN ACT concerning

2 **Electricity – ~~Certificate of Public Convenience and Necessity~~ – Construction**
3 **of Overhead Transmission Lines and Wind Generating Stations**

4 FOR the purpose of authorizing the Public Service Commission to waive the
5 requirement for an electric company to obtain a certificate of public convenience
6 and necessity under certain circumstances for good cause; requiring the
7 Commission to waive the requirement to obtain a certificate of public
8 convenience and necessity for construction related to an existing overhead
9 transmission line designed to carry a certain amount of voltage under certain
10 circumstances; authorizing an electric company to undertake construction
11 related to an existing overhead transmission line that is necessary to avoid an
12 imminent safety hazard or reliability risk under certain circumstances;
13 requiring an electric company to file a certain report with the Commission
14 within a certain period of time under certain circumstances; providing that a
15 certain provision that requires a person to obtain certain approval from the
16 Commission before constructing a certain generating station does not apply to a
17 person constructing a certain wind generating station that has wind turbines
18 within a certain distance from the Patuxent River Naval Air Station, as
19 determined by certain regulation; and generally relating to ~~certificates of public~~
20 ~~convenience and necessity for~~ the construction of overhead electric transmission
21 lines and certain wind generating stations.

22 BY repealing and reenacting, without amendments,

23 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 Section 7–207(a)
2 Annotated Code of Maryland
3 (2010 Replacement Volume and 2011 Supplement)

4 BY repealing and reenacting, with amendments,
5 Article – Public Utilities
6 Section 7–207(b) and 7–207.1(a)
7 Annotated Code of Maryland
8 (2010 Replacement Volume and 2011 Supplement)

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

11 **Article – Public Utilities**

12 7–207.

13 (a) (1) (i) In this section and § 7–208 of this subtitle, “construction”
14 means:

15 1. any physical change at a site, including fabrication,
16 erection, installation, or demolition; or

17 2. the entry into a binding agreement or contractual
18 obligation to purchase equipment exclusively for use in construction in the State or to
19 undertake a program of actual construction in the State which cannot be canceled or
20 modified without substantial loss to the owner or operator of the proposed generating
21 station.

22 (ii) “Construction” does not include a change that is needed for
23 the temporary use of a site or route for nonutility purposes or for use in securing
24 geological data, including any boring that is necessary to ascertain foundation
25 conditions.

26 (2) In this section, “qualified generator lead line” means an overhead
27 transmission line that is designed to carry a voltage in excess of 69,000 volts and
28 would allow an out-of-state Tier 1 or Tier 2 renewable source to interconnect with a
29 portion of the electric system in Maryland that is owned by an electric company.

30 (b) (1) (i) Unless a certificate of public convenience and necessity for
31 the construction is first obtained from the Commission, a person may not begin
32 construction in the State of:

33 1. a generating station; or

34 2. a qualified generator lead line.

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

5 (iii) Notwithstanding subparagraph (i) of this paragraph, a
6 person may not apply to obtain a certificate of public convenience and necessity for
7 construction of a qualified generator lead line unless:

8 1. at least 90 days before the filing of an application for
9 a certificate of public convenience and necessity, the person had in good faith offered
10 the electric company that owns that portion of the electric grid in Maryland to which
11 the qualified generator lead line would interconnect a full and fair opportunity for the
12 electric company to construct the qualified generator lead line; and

13 2. at any time at least 10 days before the filing of an
14 application for a certificate of public convenience and necessity, the electric company:

15 A. did not accept from the person a proposal or a
16 negotiated version of the proposal under which the electric company would construct
17 the qualified generator lead line; or

18 B. stated in writing that the electric company did not
19 intend to construct the qualified generator lead line.

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

25 (3) (I) [Unless] **EXCEPT AS PROVIDED IN PARAGRAPH (4) OF**
26 **THIS SUBSECTION, UNLESS** a certificate of public convenience and necessity for the
27 construction is first obtained from the Commission, an electric company may not begin
28 construction of an overhead transmission line that is designed to carry a voltage in
29 excess of 69,000 volts or exercise a right of condemnation with the construction.

30 (II) **THE FOR CONSTRUCTION RELATED TO AN EXISTING**
31 **OVERHEAD TRANSMISSION LINE, THE COMMISSION MAY WAIVE THE**
32 **REQUIREMENT IN SUBPARAGRAPH (I) OF THIS PARAGRAPH FOR GOOD CAUSE.**

33 (4) (I) **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**
34 **PARAGRAPH, FOR CONSTRUCTION RELATED TO AN EXISTING OVERHEAD**
35 **TRANSMISSION LINE DESIGNED TO CARRY A VOLTAGE IN EXCESS OF 69,000**
36 **VOLTS, THE COMMISSION SHALL WAIVE THE REQUIREMENT TO OBTAIN A**

1 CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IF THE COMMISSION
2 FINDS THAT THE CONSTRUCTION DOES NOT:

3 1. REQUIRE THE ELECTRIC COMPANY TO OBTAIN
4 NEW REAL PROPERTY OR ADDITIONAL RIGHTS-OF-WAY THROUGH EMINENT
5 DOMAIN; OR

6 2. REQUIRE LARGER OR HIGHER STRUCTURES TO
7 ACCOMMODATE:

8 A. INCREASED VOLTAGE; OR

9 B. LARGER CONDUCTORS.

10 (ii) 1. FOR CONSTRUCTION RELATED TO AN EXISTING
11 OVERHEAD TRANSMISSION LINE, INCLUDING REPAIRS, THAT IS NECESSARY TO
12 AVOID AN IMMINENT SAFETY HAZARD OR RELIABILITY RISK, AN ELECTRIC
13 COMPANY MAY UNDERTAKE THE NECESSARY CONSTRUCTION.

14 2. WITHIN 30 DAYS AFTER CONSTRUCTION IS
15 COMPLETED UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH, AN
16 ELECTRIC COMPANY SHALL FILE A REPORT WITH THE COMMISSION
17 DESCRIBING THE WORK THAT WAS COMPLETED.

18 7-207.1.

19 (a) This section applies to a person who:

20 (1) constructs a generating station:

21 (i) designed to provide on-site generated electricity if:

22 1. the capacity of the generating station does not exceed
23 70 megawatts; and

24 2. the electricity that may be exported for sale from the
25 generating station to the electric system is sold only on the wholesale market pursuant
26 to an interconnection, operation, and maintenance agreement with the local electric
27 company; or

28 (ii) that produces electricity from wind if:

29 1. the generating station is land-based;

30 2. the capacity of the generating station does not exceed
31 70 megawatts;

1 3. the electricity that may be exported for sale from the
2 generating station to the electric system is sold only on the wholesale market pursuant
3 to an interconnection, operation, and maintenance agreement with the local electric
4 company; [and]

5 4. the Commission provides an opportunity for public
6 comment at a public hearing as provided in subsection (e) of this section; AND

7 5. THE GENERATING STATION'S WIND TURBINES ARE
8 NOT LOCATED WITHIN A DISTANCE FROM THE PATUXENT RIVER NAVAL AIR
9 STATION THAT IS DETERMINED BY REGULATIONS ADOPTED BY THE
10 COMMISSION IN COORDINATION WITH THE COMMANDER, NAVAL AIR WARFARE
11 CENTER AIRCRAFT DIVISION, PROVIDED THAT THE DISTANCE REQUIREMENT
12 UNDER THE REGULATION IS:

13 A. NOT GREATER THAN IS NECESSARY TO
14 ENCOMPASS AN AREA IN WHICH UTILITY SCALE WIND TURBINES COULD CREATE
15 DOPPLER RADAR INTERFERENCE FOR MISSIONS AT THE PATUXENT RIVER
16 NAVAL AIR STATION;

17 B. NOT GREATER THAN 46 MILES, MEASURED FROM
18 LOCATION 38.29667N, 76.37668W; AND

19 C. SUBJECT TO MODIFICATION IF NECESSARY TO
20 REFLECT CHANGES IN MISSIONS OR TECHNOLOGY AT THE PATUXENT RIVER
21 NAVAL AIR STATION OR CHANGES IN WIND ENERGY TECHNOLOGY; or

22 (2) constructs a generating station if:

23 (i) the capacity of the generating station does not exceed 25
24 megawatts;

25 (ii) the electricity that may be exported for sale from the
26 generating station to the electric system is sold only on the wholesale market pursuant
27 to an interconnection, operation, and maintenance agreement with the local electric
28 company; and

29 (iii) at least 10% of the electricity generated at the generating
30 station each year is consumed on-site.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 June 1, 2012.