

Chapter 643

(Senate Bill 1073)

AN ACT concerning

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

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

BY repealing and reenacting, without amendments,
 Article – Public Utilities
 Section 7–207(a)
 Annotated Code of Maryland
 (2010 Replacement Volume and 2011 Supplement)

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

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

Article – Public Utilities

7-207.

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

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

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

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

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

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

1. a generating station; or

2. a qualified generator lead line.

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

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

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

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

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

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

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

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

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

(4) (I) **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, FOR CONSTRUCTION RELATED TO AN EXISTING OVERHEAD TRANSMISSION LINE DESIGNED TO CARRY A VOLTAGE IN EXCESS OF 69,000 VOLTS, THE COMMISSION SHALL WAIVE THE REQUIREMENT TO OBTAIN A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IF THE COMMISSION FINDS THAT THE CONSTRUCTION DOES NOT:**

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

2. **REQUIRE LARGER OR HIGHER STRUCTURES TO ACCOMMODATE:**

A. **INCREASED VOLTAGE; OR**

B. **LARGER CONDUCTORS.**

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

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

7-207.1.

(a) This section applies to a person who:

(1) constructs a generating station:

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

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

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

(ii) that produces electricity from wind if:

1. the generating station is land-based;

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

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

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

5. THE GENERATING STATION'S WIND TURBINES ARE NOT LOCATED WITHIN A DISTANCE FROM THE PATUXENT RIVER NAVAL AIR STATION THAT IS DETERMINED BY REGULATIONS ADOPTED BY THE COMMISSION IN COORDINATION WITH THE COMMANDER, NAVAL AIR WARFARE

CENTER AIRCRAFT DIVISION, PROVIDED THAT THE DISTANCE REQUIREMENT UNDER THE REGULATION IS:

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

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

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

(2) constructs a generating station if:

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

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

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

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

Approved by the Governor, May 22, 2012.