

Department of Legislative Services  
Maryland General Assembly  
2012 Session

FISCAL AND POLICY NOTE

Senate Bill 771  
Finance

(Senator Edwards)

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Public Utility Companies - Generating Stations - Wind

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This bill repeals provisions that require the Public Service Commission (PSC) to exempt a specified land-based wind powered generating station from the requirement to obtain a certificate of public convenience and necessity (CPCN) under specified conditions. The bill also repeals specified public participation requirements for applications exempt from the CPCN requirement under the provisions repealed by the bill.

The bill takes effect June 1, 2012.

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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:** Minimal or none.

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Analysis

**Current Law/Background:**

*Certificate of Public Convenience and Necessity*

The licensing of new electric power plants in the State 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. Companies wishing to obtain a license for a new power plant must apply to PSC for a CPCN.

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 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 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.

#### *CPCN Exemptions — Wind Generating Stations*

Chapter 163 of 2007 authorized PSC to exempt a person from the CPCN requirement if the following conditions are met: (1) the wind powered station 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. These provisions are repealed by this bill.

#### *CPCN Exemptions — In General*

There are two other conditions in which an electric generating facility may apply to the PSC for approval without obtaining a CPCN: (1) the facility is designed to provide on-site generated electricity, the capacity does not exceed 70 megawatts, and the excess electricity can be sold only on the wholesale market pursuant to an interconnection, operation, and maintenance agreement with the local electric company; or (2) the capacity of the generating station does not exceed 25 megawatts, at least 10% of the electricity generated is consumed on-site, and the excess electricity is sold on the wholesale market pursuant to an interconnection, operation, and maintenance agreement with the local electric company. The Code of Maryland Regulations (COMAR 20.79.01.02) specifies that a small generating station under 373 kilowatts does not need prior approval of PSC.

**Background:** Current and future land-based wind farms in the State are primarily focused in Garrett and Allegany counties, where there is an adequate wind resource.

There are currently two utility-scale wind farms operating in the State: Criterion Wind Project, a 70-megawatt facility in Garrett County, and the Roth Rock wind farm, a 50-megawatt facility also in Garrett County. As of November 2011, wind powered generating facilities provided 189.6 megawatts, or 14.3%, of all CPCN-exempt generation in the State. One additional land-based wind farm of 150 megawatts is currently in the generation queue of the Pennsylvania, New Jersey, Maryland Interconnection, Inc. (PJM), interconnection grid in the State. The project would be located in Somerset County, and has a planned in-service date of October 2014. The Administration's nonbinding goal for in-state capacity for land based wind is 590 megawatts by 2022.

**State Fiscal Effect:** Requiring small wind powered generating stations to obtain a CPCN increases the requirements of multiple State agencies and local governments that participate in the CPCN process. Due to the limited number of applications affected by the bill, however, State expenditures are not materially affected.

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### **Additional Information**

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

**Cross File:** HB 733 (Delegate Beitzel) - Economic Matters.

**Information Source(s):** Public Service Commission; Office of People's Counsel; Pennsylvania, New Jersey, Maryland Interconnection, Inc.; Maryland StateStat: Governor's Delivery Unit; TheWindPower.net; Department of Legislative Services

**Fiscal Note History:** First Reader - March 13, 2012  
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