

## Chapter 174

**(Senate Bill 460)**

AN ACT concerning

**Public Utilities – Electricity – Construction of Overhead Transmission Lines**

FOR the purpose of altering the scope of persons who may apply for a certificate of public convenience and necessity to begin construction of a certain new overhead transmission line for electricity under certain circumstances to include ~~a person rather than only an electric company~~; an electric company or a person who is or will be subject to regulation as a public utility by an officer or an agency of the United States; prohibiting the Public Service Commission from issuing a certificate of public convenience and necessity for the construction of a certain overhead transmission line to an applicant other than an electric company under certain circumstances; requiring the Commission to require as an ongoing condition of the certificate of public convenience and necessity that a certain applicant complies with certain agreements related to the ongoing operation and maintenance of the overhead transmission line and all obligations imposed by certain entities related to the ongoing operation and maintenance of the overhead transmission line; prohibiting the Commission from authorizing, and prohibiting a certain person from undertaking, the construction of a certain new overhead transmission line that is within a certain distance of a public airport runway; providing that, as of a certain date and until the Commission adopts certain regulations, certain Commission rules, regulations, and requirements shall apply to certain persons who may apply to obtain a certificate of public convenience and necessity for the construction of an overhead transmission line; and generally relating to the construction of overhead transmission lines.

BY repealing and reenacting, without amendments,  
 Article – Public Utilities  
 Section 1–101(a), (h), and (u)  
 Annotated Code of Maryland  
 (2010 Replacement Volume and 2014 Supplement)

BY repealing and reenacting, with amendments,  
 Article – Public Utilities  
 Section 7–207  
 Annotated Code of Maryland  
 (2010 Replacement Volume and 2014 Supplement)

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

**Article – Public Utilities**

1-101.

(a) In this division the following words have the meanings indicated.

(h) (1) “Electric company” means a person who physically transmits or distributes electricity in the State to a retail electric customer.

(2) “Electric company” does not include:

(i) the following persons who supply electricity and electricity supply services solely to occupants of a building for use by the occupants:

1. an owner/operator who holds ownership in and manages the internal distribution system serving the building; or

2. a lessee/operator who holds a leasehold interest in and manages the internal distribution system serving the building;

(ii) any person who generates on-site generated electricity; or

(iii) a person who transmits or distributes electricity within a site owned by the person or the person’s affiliate that is incidental to a primarily landlord-tenant relationship.

(u) “Person” means an individual, receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind and any partnership, firm, association, corporation, or other entity.

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) 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] **A PERSON** 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) For construction related to an existing overhead transmission line, the Commission may waive the requirement in subparagraph (i) of this paragraph for good cause.

**(III) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS PARAGRAPH AND SUBJECT TO SUBPARAGRAPH (IV) OF THIS PARAGRAPH, THE COMMISSION MAY ISSUE A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE CONSTRUCTION OF AN OVERHEAD TRANSMISSION LINE ONLY IF THE APPLICANT FOR THE CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY:**

**1. IS AN ELECTRIC COMPANY; OR**

**2. IS OR, ON THE START OF COMMERCIAL OPERATION OF THE OVERHEAD TRANSMISSION LINE, WILL BE SUBJECT TO REGULATION AS A PUBLIC UTILITY BY AN OFFICER OR AN AGENCY OF THE UNITED STATES.**

**(IV) THE COMMISSION MAY NOT ISSUE A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE CONSTRUCTION OF AN OVERHEAD TRANSMISSION LINE IN THE ELECTRIC DISTRIBUTION SERVICE TERRITORY OF AN ELECTRIC COMPANY TO AN APPLICANT OTHER THAN AN ELECTRIC COMPANY IF:**

**1. THE OVERHEAD TRANSMISSION LINE IS TO BE LOCATED SOLELY WITHIN THE ELECTRIC DISTRIBUTION SERVICE TERRITORY OF THAT ELECTRIC COMPANY; AND**

**2. THE COST OF THE OVERHEAD TRANSMISSION LINE IS TO BE PAID SOLELY BY THAT ELECTRIC COMPANY AND ITS RATEPAYERS.**

(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~~ **PERSON** 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~~ A PERSON may undertake the necessary construction.

2. Within 30 days after construction is completed under subsubparagraph 1 of this subparagraph, ~~an electric company~~ A PERSON shall file a report with the Commission describing the work that was completed.

(c) (1) On receipt of an application for a certificate of public convenience and necessity under this section, the Commission shall provide notice immediately or require the applicant to provide notice immediately of the application to:

(i) the Department of Planning;

(ii) the governing body of each county or municipal corporation in which any portion of the generating station, overhead transmission line, or qualified generator lead line is proposed to be constructed;

(iii) the governing body of each county or municipal corporation within 1 mile of the proposed location of the generating station, overhead transmission line, or qualified generator lead line;

(iv) each member of the General Assembly representing any part of a county in which any portion of the generating station, overhead transmission line, or qualified generator lead line is proposed to be constructed;

(v) each member of the General Assembly representing any part of each county within 1 mile of the proposed location of the generating station, overhead transmission line, or qualified generator lead line; and

(vi) all other interested persons.

(2) The Department of Planning shall forward the application to each appropriate State unit and unit of local government for review, evaluation, and comment regarding the significance of the proposal to State, area-wide, and local plans or programs.

(d) (1) The Commission shall provide an opportunity for public comment and hold a public hearing on the application for a certificate of public convenience and necessity in each county and municipal corporation in which any portion of the construction of a generating station, an overhead transmission line designed to carry a voltage in excess of 69,000 volts, or a qualified generator lead line is proposed to be located.

(2) The Commission shall hold the public hearing jointly with the governing body of the county or municipal corporation in which any portion of the

construction of the generating station, overhead transmission line, or qualified generator lead line is proposed to be located, unless the governing body declines to participate in the hearing.

(3) Once in each of the 4 successive weeks immediately before the hearing date, the Commission shall provide weekly notice of the public hearing and an opportunity for public comment by advertisement in a newspaper of general circulation in the county or municipal corporation affected by the application.

(4) (i) The Commission shall ensure presentation and recommendations from each interested State unit, and shall allow representatives of each State unit to sit during hearing of all parties.

(ii) The Commission shall allow each State unit 15 days after the conclusion of the hearing to modify the State unit's initial recommendations.

(e) The Commission shall take final action on an application for a certificate of public convenience and necessity only after due consideration of:

(1) the recommendation of the governing body of each county or municipal corporation in which any portion of the construction of the generating station, overhead transmission line, or qualified generator lead line is proposed to be located; and

(2) the effect of the generating station, overhead transmission line, or qualified generator lead line on:

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

(ii) economics;

(iii) esthetics;

(iv) historic sites;

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

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

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

(f) For the construction of an overhead transmission line, in addition to the considerations listed in subsection (e) of this section, the Commission shall:

**(1)** take final action on an application for a certificate of public convenience and necessity only after due consideration of the need to meet existing and future demand for electric service; AND

**(2)** REQUIRE AS AN ONGOING CONDITION OF THE CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY THAT AN APPLICANT COMPLIES WITH:

**(I)** ALL RELEVANT AGREEMENTS WITH PJM INTERCONNECTION, L.L.C., OR ITS SUCCESSORS, RELATED TO THE ONGOING OPERATION AND MAINTENANCE OF THE OVERHEAD TRANSMISSION LINE; AND

**(II)** ALL OBLIGATIONS IMPOSED BY THE NORTH AMERICA ELECTRIC RELIABILITY COUNCIL AND THE FEDERAL ENERGY REGULATORY COMMISSION RELATED TO THE ONGOING OPERATION AND MAINTENANCE OF THE OVERHEAD TRANSMISSION LINE.

(g) (1) The Commission may not authorize, and [an electric company] A PERSON may not undertake, the construction of an overhead transmission line that is aligned with and within 1 mile of either end of a public airport runway, unless:

(i) the Federal Aviation Administration determines that the construction of an overhead transmission line will not constitute a hazard to air navigation; and

(ii) the Maryland Aviation Administration concurs in that determination.

(2) A privately owned airport runway shall qualify as a public airport runway under this subsection only if the runway has been on file with the Federal Aviation Administration for at least 2 years as being open to the public without restriction.

SECTION 2. AND BE IT FURTHER ENACTED, That, as of October 1, 2015, and until the Public Service Commission adopts regulations to implement this Act, all Commission regulations, rules, and requirements that apply to the application of an electric company to obtain a certificate of public convenience and necessity for the construction of an overhead transmission line under § 7-207 of the Public Utilities Article, as enacted by this Act, shall apply to any person who may apply under this Act to obtain a certificate of public convenience and necessity for the construction of an overhead transmission line.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2015.

**Approved by the Governor, May 12, 2015.**