

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

Senate Bill 938
Finance

(Senator Hershey)

Public Service Commission - Certificate of Public Convenience and Necessity -
Land-Based Wind Generating Stations in Kent County

This bill prohibits the Public Service Commission (PSC) from taking final action on an application for a certificate of public convenience and necessity (CPCN) for a land-based wind-powered generating station that will have a capacity of at least 70 megawatts and be wholly or partially located in Kent County until the county commissioners have approved the construction. The existing CPCN requirements are otherwise unchanged.

Fiscal Summary

State Effect: PSC can implement the bill with existing budgeted resources.

Local Effect: The bill does not directly affect local government finances. The bill does not necessarily alter the outcome of a CPCN application.

Small Business Effect: None. The bill does not necessarily alter the outcome of a CPCN application.

Analysis

Current Law: Generally, a person may not begin construction in the State of a generating station, overhead transmission line, or a qualified generator lead line unless a CPCN is first obtained from PSC. PSC regulations define a “generating station” as property or facilities located in Maryland constituting an integral piece of equipment or unit for the production of electric energy, including any new production unit that would be added to an existing production plant. It does not include an integral piece of equipment or unit less than 2,000 kilowatts if it is installed with equipment that prevents the flow of electricity to the electric system during time periods when the electric system is out of service. There are

certain conditions under which a person constructing an electric generating station may apply to PSC for an exemption from the CPCN requirement.

PSC must provide an opportunity for public comment and hold a public hearing on the CPCN application in each county and municipality in which any portion of the construction of a generating station, overhead transmission line, or qualified generator lead line is proposed to be located. PSC must hold the hearing jointly with the governing body of the county or municipality, and must provide weekly notice during the four weeks prior to the hearing.

PSC must take final action on an application for CPCN for a proposed generating station only after due consideration of:

- the recommendation of the governing body of each county or municipality in which any portion of the construction of the generating station is proposed to be located; and
- the effect of the generating station on the stability and reliability of the electric system, economics, esthetics, historic sites, aviation safety, air and water pollution (when applicable), and the availability of means for the required timely disposal of wastes produced by the generating station.

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.

If a commercial wind-powered generating facility is granted a CPCN by PSC, the generating facility may be constructed without regard to local zoning rule, regulation, law, or ordinances. When considering an application for a CPCN, PSC may require an applicant to provide for decommissioning of the facility as a condition of approval. In past cases, this has included establishing a bond or financial instrument to ensure that the facility can be returned to a state comparable to the condition of the land prior to construction.

Wind-powered generating facilities with a capacity of more than 70 megawatts must obtain a CPCN prior to construction. Wind facilities with a capacity 70 megawatts or less and

located in specified areas of the State may apply for a CPCN or may request an exemption from CPCN requirements.

If a generating facility is granted an exemption from the CPCN requirement, PSC evaluation is limited to ensuring safety and reliability of the electric system. All issues other than safety and reliability of the electric system are left up to other State and local agencies.

Mills Branch Wind

Apex Clean Energy is proposing to construct approximately 35 to 45 wind turbines on approximately 5,000 acres of open farmland in Kent County. The project is known as the Mills Branch Wind and has an estimated capacity of 130 megawatts (which is too large for a CPCN exemption). The Mills Branch Wind area of interest is shown below in **Exhibit 1**.

Exhibit 1 Mills Branch Wind Area of Interest



Source: Apex Clean Energy

No CPCN application has been filed for the project with PSC as of March 25, 2015. According to the project's website, the project is still "very early in the process. Community input, extensive studies, engineering, permitting and other work must be complete before construction can begin. This typically takes two years or more, which means construction is unlikely before 2016."

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Public Service Commission, Kent County, Apex Clean Energy, Department of Legislative Services

Fiscal Note History: First Reader - March 30, 2015
min/lgc

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