

HOUSE BILL 794

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CF SB 692

By: **Delegates Szeliga, Cassilly, Glass, McComas, McDonough, and Reilly**

Introduced and read first time: February 1, 2018

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Public Service Commission – Construction of Overhead Transmission Lines –**
3 **Location**

4 FOR the purpose of prohibiting the Public Service Commission from issuing a certificate of
5 public convenience and necessity for the construction of an overhead transmission
6 line that is designed to carry a certain voltage unless the overhead transmission line
7 will be located on certain sites or on land subject to a certain easement; authorizing
8 the Commission to issue a certificate of public convenience and necessity for the
9 construction of an overhead transmission line at a location other than certain sites
10 or on land subject to a certain easement under certain circumstances; defining
11 certain terms; providing for the application of this Act; and generally relating to the
12 location of overhead transmission lines.

13 BY repealing and reenacting, with amendments,
14 Article – Public Utilities
15 Section 7–207
16 Annotated Code of Maryland
17 (2010 Replacement Volume and 2017 Supplement)

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

20 **Article – Public Utilities**

21 7–207.

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

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

9 (2) **(I) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**
10 **MEANINGS INDICATED.**

11 **(II) “BROWNFIELDS SITE” MEANS:**

12 1. **A FORMER INDUSTRIAL OR COMMERCIAL SITE**
13 **IDENTIFIED BY FEDERAL OR STATE LAWS OR REGULATION AS CONTAMINATED OR**
14 **POLLUTED;**

15 2. **A CLOSED LANDFILL REGULATED BY THE**
16 **DEPARTMENT OF THE ENVIRONMENT; OR**

17 3. **MINED LAND.**

18 **(III) 1. “MINED LAND” MEANS THE SURFACE OR**
19 **SUBSURFACE OF AN AREA IN WHICH SURFACE MINING OPERATIONS WILL BE, ARE**
20 **BEING, OR HAVE BEEN CONDUCTED.**

21 2. **“MINED LAND” INCLUDES:**

22 **A. PRIVATE WAYS AND ROADS USED FOR MINING**
23 **APPURTENANT TO ANY SURFACE MINING AREA;**

24 **B. LAND EXCAVATIONS;**

25 **C. WORKINGS; AND**

26 **D. OVERBURDEN.**

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

31 (b) (1) (i) Unless a certificate of public convenience and necessity for the

1 construction is first obtained from the Commission, a person may not begin construction in
2 the State of:

- 3 1. a generating station; or
- 4 2. a qualified generator lead line.

5 (ii) If a person obtains Commission approval for construction under
6 § 7-207.1 of this subtitle, the Commission shall exempt a person from the requirement to
7 obtain a certificate of public convenience and necessity under this section.

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

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

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

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

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

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

28 (3) (i) Except as provided in paragraph (4) of this subsection, unless a
29 certificate of public convenience and necessity for the construction is first obtained from the
30 Commission, a person may not begin construction of an overhead transmission line that is
31 designed to carry a voltage in excess of 69,000 volts or exercise a right of condemnation
32 with the construction.

33 (ii) For construction related to an existing overhead transmission
34 line, the Commission may waive the requirement in subparagraph (i) of this paragraph for
35 good cause.

1 (iii) Notwithstanding subparagraph (i) of this paragraph and subject
2 to subparagraph (iv) of this paragraph, the Commission may issue a certificate of public
3 convenience and necessity for the construction of an overhead transmission line only if the
4 applicant for the certificate of public convenience and necessity:

5 1. is an electric company; or

6 2. is or, on the start of commercial operation of the overhead
7 transmission line, will be subject to regulation as a public utility by an officer or an agency
8 of the United States.

9 (iv) The Commission may not issue a certificate of public convenience
10 and necessity for the construction of an overhead transmission line in the electric
11 distribution service territory of an electric company to an applicant other than an electric
12 company if:

13 1. the overhead transmission line is to be located solely
14 within the electric distribution service territory of that electric company; and

15 2. the cost of the overhead transmission line is to be paid
16 solely by that electric company and its ratepayers.

17 (v) 1. This subparagraph applies to the construction of an
18 overhead transmission line for which a certificate of public convenience and necessity is
19 required under this section.

20 2. On issuance of a certificate of public convenience and
21 necessity for the construction of an overhead transmission line, a person may acquire by
22 condemnation, in accordance with Title 12 of the Real Property Article, any property or
23 right necessary for the construction or maintenance of the transmission line.

24 (4) (i) Except as provided in subparagraph (ii) of this paragraph, for
25 construction related to an existing overhead transmission line designed to carry a voltage
26 in excess of 69,000 volts, the Commission shall waive the requirement to obtain a certificate
27 of public convenience and necessity if the Commission finds that the construction does not:

28 1. require the person to obtain new real property or
29 additional rights-of-way through eminent domain; or

30 2. require larger or higher structures to accommodate:

31 A. increased voltage; or

32 B. larger conductors.

33 (ii) 1. For construction related to an existing overhead
34 transmission line, including repairs, that is necessary to avoid an imminent safety hazard

1 or reliability risk, a person may undertake the necessary construction.

2 2. Within 30 days after construction is completed under
3 subsubparagraph 1 of this subparagraph, a person shall file a report with the Commission
4 describing the work that was completed.

5 **(5) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**
6 **PARAGRAPH, THE COMMISSION MAY NOT ISSUE A CERTIFICATE OF PUBLIC**
7 **CONVENIENCE AND NECESSITY FOR THE CONSTRUCTION OF AN OVERHEAD**
8 **TRANSMISSION LINE THAT IS DESIGNED TO CARRY A VOLTAGE IN EXCESS OF 69,000**
9 **VOLTS UNLESS THE OVERHEAD TRANSMISSION LINE WILL BE LOCATED ON:**

10 1. **AN EXISTING BROWNFIELDS SITE;**

11 2. **PROPERTY THAT IS SUBJECT TO AN EXISTING**
12 **EASEMENT; OR**

13 3. **A SITE WHERE A TOWER STRUCTURE OR**
14 **COMPONENTS OF A TOWER STRUCTURE USED TO SUPPORT AN OVERHEAD**
15 **TRANSMISSION LINE EXIST.**

16 **(II) THE COMMISSION MAY ISSUE A CERTIFICATE OF PUBLIC**
17 **CONVENIENCE FOR THE CONSTRUCTION OF AN OVERHEAD TRANSMISSION LINE AT**
18 **A LOCATION OTHER THAN THE LOCATIONS LISTED IN SUBPARAGRAPH (I) OF THIS**
19 **PARAGRAPH IF THE COMMISSION DETERMINES THAT THE LOCATIONS LISTED IN**
20 **SUBPARAGRAPH (I) OF THIS PARAGRAPH ARE AT FULL CAPACITY, AS VERIFIED BY**
21 **AN INDEPENDENT AUTHORITY.**

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

25 (i) the Department of Planning;

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

29 (iii) the governing body, and if applicable the executive, of each
30 county or municipal corporation within 1 mile of the proposed location of the generating
31 station, overhead transmission line, or qualified generator lead line;

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

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

4 (vi) all other interested persons.

5 (2) The Commission, when sending the notice required under paragraph
6 (1) of this subsection, shall forward a copy of the application to:

7 (i) each appropriate State unit and unit of local government for
8 review, evaluation, and comment regarding the significance of the proposal to State,
9 area-wide, and local plans or programs; and

10 (ii) each member of the General Assembly included under paragraph
11 (1)(iv) and (v) of this subsection who requests a copy of the application.

12 (d) (1) The Commission shall provide an opportunity for public comment and
13 hold a public hearing on the application for a certificate of public convenience and necessity
14 in each county and municipal corporation in which any portion of the construction of a
15 generating station, an overhead transmission line designed to carry a voltage in excess of
16 69,000 volts, or a qualified generator lead line is proposed to be located.

17 (2) The Commission shall hold the public hearing jointly with the
18 governing body of the county or municipal corporation in which any portion of the
19 construction of the generating station, overhead transmission line, or qualified generator
20 lead line is proposed to be located, unless the governing body declines to participate in the
21 hearing.

22 (3) (i) Once in each of the 4 successive weeks immediately before the
23 hearing date, the Commission shall provide weekly notice of the public hearing and an
24 opportunity for public comment:

25 1. by advertisement in a newspaper of general circulation in
26 the county or municipal corporation affected by the application;

27 2. on two types of social media; and

28 3. on the Commission's Web site.

29 (ii) Before a public hearing, the Commission shall coordinate with
30 the governing body of the county or municipal corporation in which any portion of the
31 construction of the generating station, overhead transmission line, or qualified generator
32 lead line is proposed to be located to identify additional options for providing, in an efficient
33 and cost-effective manner, notice of the public hearing through other types of media that
34 are familiar to the residents of the county or municipal corporation.

1 (4) (i) On the day of a public hearing, an informational sign shall be
2 posted prominently at or near each public entrance of the building in which the public
3 hearing will be held.

4 (ii) The informational sign required under subparagraph (i) of this
5 paragraph shall:

6 1. state the time, room number, and subject of the public
7 hearing; and

8 2. be at least 17 by 22 inches in size.

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

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

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

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

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

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

22 (ii) economics;

23 (iii) esthetics;

24 (iv) historic sites;

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

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

28 (vii) the availability of means for the required timely disposal of
29 wastes produced by any generating station; and

30 (3) for a generating station:

1 (i) the consistency of the application with the comprehensive plan
2 and zoning of each county or municipal corporation where any portion of the generating
3 station is proposed to be located; and

4 (ii) the efforts to resolve any issues presented by a county or
5 municipal corporation where any portion of the generating station is proposed to be located.

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

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

11 (2) require as an ongoing condition of the certificate of public convenience
12 and necessity that an applicant complies with:

13 (i) all relevant agreements with PJM Interconnection, L.L.C., or its
14 successors, related to the ongoing operation and maintenance of the overhead transmission
15 line; and

16 (ii) all obligations imposed by the North America Electric Reliability
17 Council and the Federal Energy Regulatory Commission related to the ongoing operation
18 and maintenance of the overhead transmission line.

19 (g) (1) The Commission may not authorize, and a person may not undertake,
20 the construction of an overhead transmission line that is aligned with and within 1 mile of
21 either end of a public airport runway, unless:

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

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

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

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
31 apply only prospectively to certificates of public convenience and necessity issued by the
32 Public Service Commission on or after the effective date of this Act and may not be applied
33 or interpreted to have any effect on certificates of public convenience and necessity issued
34 by the Public Service Commission before the effective date of this Act.

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June
2 1, 2018.