

SENATE BILL 696

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CF HB 869

By: **Senators Jennings, Cassilly, and Norman**

Introduced and read first time: February 2, 2018

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Construction of Transmission Lines – Landowners – Notification and**
3 **Compensation**

4 FOR the purpose of requiring a public service company or an applicant to provide certain
5 notice to owners of land located within a certain distance of certain proposed
6 transmission lines under certain circumstances; requiring the Public Service
7 Commission to consider, and authorizing the Commission to require, as a condition
8 of the issuance of a certificate of public convenience and necessity, the applicant to
9 compensate owners of land located within a certain distance of a certain proposed
10 transmission line that are directly or indirectly impacted by the transmission line;
11 requiring the Commission to provide certain notice to owners of land located within
12 a certain distance of certain proposed transmission lines under certain
13 circumstances; and generally relating to the construction of transmission lines.

14 BY repealing and reenacting, with amendments,
15 Article – Public Utilities
16 Section 7–204, 7–207(b) and (c), and 7–208(e)
17 Annotated Code of Maryland
18 (2010 Replacement Volume and 2017 Supplement)

19 BY repealing and reenacting, without amendments,
20 Article – Public Utilities
21 Section 7–208(b)
22 Annotated Code of Maryland
23 (2010 Replacement Volume and 2017 Supplement)

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

26 **Article – Public Utilities**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 7-204.

2 (a) (1) Notwithstanding any other provision of this division, at least 30 days
3 before a hearing, a public service company shall:

4 (I) provide to each owner of land, by certified mail, written notice of
5 intent to run a line or similar transmission device over, on, or under the land; AND

6 (II) **PROVIDE TO EACH OWNER OF LAND LOCATED WHOLLY OR**
7 **PARTLY WITHIN 2,500 FEET OF AN OVERHEAD TRANSMISSION LINE DESIGNED TO**
8 **CARRY A VOLTAGE IN EXCESS OF 69,000 VOLTS, BY CERTIFIED MAIL, WRITTEN**
9 **NOTICE OF INTENT TO CONSTRUCT A TRANSMISSION LINE OVER OR ON THE LAND.**

10 (2) The public service company shall determine the property owners from
11 the current tax assessment records of the political subdivision in which the property is
12 located.

13 (b) Unless the failure is willful or deliberate, the failure of a public service
14 company to provide notice does not invalidate a public hearing or require that another
15 hearing take place.

16 7-207.

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

20 1. a generating station; or

21 2. a qualified generator lead line.

22 (ii) If a person obtains Commission approval for construction under
23 § 7-207.1 of this subtitle, the Commission shall exempt a person from the requirement to
24 obtain a certificate of public convenience and necessity under this section.

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

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

33 2. at any time at least 10 days before the filing of an

1 application for a certificate of public convenience and necessity, the electric company:

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

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

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

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

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

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

24 1. is an electric company; or

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

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

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

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

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

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

8 **3. THE COMMISSION SHALL CONSIDER, AND MAY**
9 **REQUIRE, AS A CONDITION OF THE ISSUANCE OF A CERTIFICATE OF PUBLIC**
10 **CONVENIENCE AND NECESSITY, THE APPLICANT TO COMPENSATE OWNERS OF LAND**
11 **LOCATED WHOLLY OR PARTLY WITHIN 2,500 FEET OF A PROPOSED OVERHEAD**
12 **TRANSMISSION LINE DESIGNED TO CARRY A VOLTAGE IN EXCESS OF 69,000 VOLTS**
13 **THAT ARE DIRECTLY OR INDIRECTLY IMPACTED BY THE TRANSMISSION LINE.**

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

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

20 2. require larger or higher structures to accommodate:

21 A. increased voltage; or

22 B. larger conductors.

23 (ii) 1. For construction related to an existing overhead
24 transmission line, including repairs, that is necessary to avoid an imminent safety hazard
25 or reliability risk, a person may undertake the necessary construction.

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

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

32 (i) the Department of Planning;

33 (ii) the governing body, and if applicable the executive, of each
34 county or municipal corporation in which any portion of the generating station, overhead

1 transmission line, or qualified generator lead line is proposed to be constructed;

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

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

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

11 (vi) **EACH OWNER OF LAND LOCATED WHOLLY OR PARTLY**
12 **WITHIN 2,500 FEET OF A PROPOSED OVERHEAD TRANSMISSION LINE DESIGNED TO**
13 **CARRY A VOLTAGE IN EXCESS OF 69,000 VOLTS; AND**

14 (VII) all other interested persons.

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

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

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

22 7-208.

23 (b) This section applies to any person:

24 (1) constructing a generating station and its associated overhead
25 transmission lines designed to carry a voltage in excess of 69,000 volts;

26 (2) exercising the right of condemnation in connection with the
27 construction; or

28 (3) constructing a qualified submerged renewable energy line.

29 (e) (1) On the receipt of an application under this section, together with any
30 additional information requested under subsection (d)(2) of this section, the Commission
31 shall provide notice to:

1 (i) EACH OWNER OF LAND LOCATED WHOLLY OR PARTLY
2 WITHIN 2,500 FEET OF A PROPOSED OVERHEAD TRANSMISSION LINE;

3 (II) all interested persons;

4 [(ii)] (III) the Department of Agriculture;

5 [(iii)] (IV) the Department of Commerce;

6 [(iv)] (V) the Department of the Environment;

7 [(v)] (VI) the Department of Natural Resources;

8 [(vi)] (VII) the Department of Transportation;

9 [(vii)] (VIII) the Department of Planning; and

10 [(viii)] (IX) the Maryland Energy Administration.

11 (2) On receipt of an application under this section, and whenever
12 additional information is received under subsection (d)(2) of this section, the Commission
13 shall provide notice immediately or require the applicant to provide notice immediately to:

14 (i) the governing body of each county or municipal corporation in
15 which any portion of the generating station or the associated overhead transmission lines
16 is proposed to be constructed;

17 (ii) the governing body of each county or municipal corporation
18 within 1 mile of the proposed location of the generating station or the associated overhead
19 transmission lines;

20 (iii) each member of the General Assembly representing any part of
21 a county in which any portion of the generating station or the associated overhead
22 transmission lines is proposed to be constructed; [and]

23 (iv) each member of the General Assembly representing any part of
24 each county within 1 mile of the proposed location of the generating station or the
25 associated overhead transmission lines; AND

26 (V) EACH OWNER OF LAND LOCATED WHOLLY OR PARTLY
27 WITHIN 2,500 FEET OF A PROPOSED OVERHEAD TRANSMISSION LINE.

28 (3) The Commission shall hold a public hearing on the application as
29 required by § 7–207 of this subtitle after:

30 (i) the receipt of any additional information requested under

1 subsection (d)(2) of this section that the Commission considers necessary; and

2 (ii) any publication of notice the Commission considers to be proper.

3 (4) (i) At the public hearing, the Commission shall ensure presentation
4 of the information and recommendations of the State units specified in paragraph (1) of
5 this subsection and shall allow the official representative of each unit to sit during hearing
6 of all parties.

7 (ii) Based on the evidence relating to the unit's areas of concern, the
8 Commission shall allow each unit 15 days after the conclusion of the hearing to modify or
9 affirm the unit's initial recommendations.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2018.