

HOUSE BILL 1338

C5
HB 1367/24 – ECM

5lr2798

By: **Delegate Valderrama**

Introduced and read first time: February 7, 2025

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Public Utilities – Certificates of Public Convenience and Necessity – Energy**
3 **Storage Devices**

4 FOR the purpose of requiring a person to obtain a certificate of public convenience and
5 necessity from the Public Service Commission before beginning construction of a
6 certain energy storage device; and generally relating to certificates of public
7 convenience and necessity.

8 BY repealing and reenacting, with amendments,

9 Article – Public Utilities

10 Section 7–207(a), (b)(1), (c)(1), (d)(1)(i), (2), and (3)(ii), (e), and (h)(3)

11 Annotated Code of Maryland

12 (2020 Replacement Volume and 2024 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

14 That the Laws of Maryland read as follows:

15 **Article – Public Utilities**

16 7–207.

17 (a) (1) In this section the following words have the meanings indicated.

18 (2) “Brownfields site” means:

19 (i) a former industrial or commercial site identified by federal or
20 State laws or regulation as contaminated or polluted;

21 (ii) a closed landfill regulated by the Department of the
22 Environment; or

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (iii) mined land.

2 (3) (i) “Construction” means:

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

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

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

13 (4) **“ENERGY STORAGE DEVICE” MEANS A RESOURCE THAT:**

14 **(I) IS CAPABLE OF ABSORBING ELECTRICAL ENERGY, STORING**
15 **IT FOR A PERIOD OF TIME, AND DELIVERING THE ENERGY FOR USE AT A LATER TIME**
16 **AS NEEDED, REGARDLESS OF WHERE THE RESOURCE IS LOCATED ON THE ELECTRIC**
17 **DISTRIBUTION SYSTEM;**

18 **(II) HAS A MINIMUM ENERGY STORAGE CAPACITY OF 2**
19 **MEGAWATTS; AND**

20 **(III) IS INSTALLED IN FRONT OF THE METER.**

21 (5) “Generating station” does not include:

22 (i) a generating unit or facility that:

23 1. is used for the production of electricity;

24 2. has the capacity to produce not more than 2 megawatts of
25 alternating current; and

26 3. is installed with equipment that prevents the flow of
27 electricity to the electric grid during time periods when the electric grid is out of service;

28 (ii) a combination of two or more generating units or facilities that:

29 1. are used for the production of electricity from a solar
30 photovoltaic system or an eligible customer–generator that is subject to the provisions of §
31 7–306 of this title;

1 2. are located on the same property or adjacent properties;

2 3. have the capacity to produce, when calculated
3 cumulatively for all generating units or facilities on the property or adjacent property, more
4 than 2 megawatts but not more than 14 megawatts of alternating current; and

5 4. for each individual generating unit or facility:

6 A. has the capacity to produce not more than 2 megawatts of
7 alternating current;

8 B. is separately metered by the electric company; and

9 C. does not export electricity for sale on the wholesale market
10 under an agreement with PJM Interconnection, LLC;

11 (iii) a generating unit or facility that:

12 1. is used for the production of electricity for the purpose of:

13 A. onsite emergency backup at a facility when service from
14 the electric company is interrupted due to electric distribution or transmission system
15 failure or when there is equipment failure at a site where critical infrastructure is located;
16 and

17 B. test and maintenance operations necessary to ensure
18 functionality of the generating unit or facility in the event of a service interruption from
19 the electric company due to electric distribution or transmission system failure or when
20 there is equipment failure at a site where critical infrastructure is located;

21 2. is installed with equipment that prevents the flow of
22 electricity to the electric grid;

23 3. is subject to a permit to construct issued by the
24 Department of the Environment; and

25 4. is installed at a facility that is part of critical
26 infrastructure if the facility complies with all applicable regulations regarding noise level
27 and testing hours; or

28 (iv) a combination of two or more generating units or facilities that
29 satisfy item (iii) of this paragraph.

30 **[(5)] (6)** (i) “Mined land” means the surface or subsurface of an area
31 in which surface mining operations will be, are being, or have been conducted.

- 1 (ii) "Mined land" includes:
- 2 1. private ways and roads used for mining appurtenant to
- 3 any surface mining area;
- 4 2. land excavations;
- 5 3. workings; and
- 6 4. overburden.

7 ~~[(6)]~~ (7) "Qualified generator lead line" means an overhead transmission

8 line that is designed to carry a voltage in excess of 69,000 volts and would allow an

9 out-of-state Tier 1 or Tier 2 renewable source to interconnect with a portion of the electric

10 system in Maryland that is owned by an electric company.

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

12 construction is first obtained from the Commission, a person may not begin construction in

13 the State of:

- 14 1. a generating station; ~~[or]~~
- 15 2. a qualified generator lead line; **OR**
- 16 **3. AN ENERGY STORAGE DEVICE.**

17 (ii) If a person obtains Commission approval for construction under

18 § 7-207.1 of this subtitle, the Commission shall exempt a person from the requirement to

19 obtain a certificate of public convenience and necessity under this section.

20 (iii) Notwithstanding subparagraph (i) of this paragraph, a person

21 may not apply to obtain a certificate of public convenience and necessity for construction of

22 a qualified generator lead line unless:

23 1. at least 90 days before the filing of an application for a

24 certificate of public convenience and necessity, the person had in good faith offered the

25 electric company that owns that portion of the electric grid in Maryland to which the

26 qualified generator lead line would interconnect a full and fair opportunity for the electric

27 company to construct the qualified generator lead line; and

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

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

30 A. did not accept from the person a proposal or a negotiated

31 version of the proposal under which the electric company would construct the qualified

32 generator lead line; or

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

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

6 (i) the Department of Planning;

7 (ii) the governing body, and if applicable the executive, of each
8 county or municipal corporation in which any portion of the generating station, overhead
9 transmission line, [or] qualified generator lead line, **OR ENERGY STORAGE DEVICE** is
10 proposed to be constructed;

11 (iii) the governing body, and if applicable the executive, of each
12 county or municipal corporation within 1 mile of the proposed location of the generating
13 station, overhead transmission line, [or] qualified generator lead line, **OR ENERGY**
14 **STORAGE DEVICE**;

15 (iv) each member of the General Assembly representing any part of
16 a county in which any portion of the generating station, overhead transmission line, [or]
17 qualified generator lead line, **OR ENERGY STORAGE DEVICE** is proposed to be constructed;

18 (v) each member of the General Assembly representing any part of
19 each county within 1 mile of the proposed location of the generating station, overhead
20 transmission line, [or] qualified generator lead line, **OR ENERGY STORAGE DEVICE**;

21 (vi) for a proposed overhead transmission line, each owner of land
22 and each owner of adjacent land; and

23 (vii) all other interested persons.

24 (d) (1) (i) The Commission shall provide an opportunity for public
25 comment and hold a public hearing on the application for a certificate of public convenience
26 and necessity in each county and municipal corporation in which any portion of the
27 construction of a generating station, an overhead transmission line designed to carry a
28 voltage in excess of 69,000 volts, [or] a qualified generator lead line, **OR AN ENERGY**
29 **STORAGE DEVICE** is proposed to be located.

30 (2) The Commission shall hold the public hearing jointly with the
31 governing body of the county or municipal corporation in which any portion of the
32 construction of the generating station, overhead transmission line, [or] qualified generator
33 lead line, **OR ENERGY STORAGE DEVICE** is proposed to be located, unless the governing
34 body declines to participate in the hearing.

1 (3) (ii) Before a public hearing, the Commission shall coordinate with
2 the governing body of the county or municipal corporation in which any portion of the
3 construction of the generating station, overhead transmission line, [or] qualified generator
4 lead line, **OR ENERGY STORAGE DEVICE** is proposed to be located to identify additional
5 options for providing, in an efficient and cost-effective manner, notice of the public hearing
6 through other types of media that are familiar to the residents of the county or municipal
7 corporation.

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

10 (1) the recommendation of the governing body of each county or municipal
11 corporation in which any portion of the construction of the generating station, overhead
12 transmission line, [or] qualified generator lead line, **OR ENERGY STORAGE DEVICE** is
13 proposed to be located;

14 (2) the effect of the generating station, overhead transmission line, [or]
15 qualified generator lead line, **OR ENERGY STORAGE DEVICE** on:

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

17 (ii) economics;

18 (iii) esthetics;

19 (iv) historic sites;

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

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

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

25 (3) the effect of climate change on the generating station, overhead
26 transmission line, [or] qualified generator lead line, **OR ENERGY STORAGE DEVICE** based
27 on the best available scientific information recognized by the Intergovernmental Panel on
28 Climate Change; and

29 (4) for a generating station:

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

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

3 (iii) the impact of the generating station on the quantity of annual
4 and long-term statewide greenhouse gas emissions, measured in the manner specified in §
5 2-1202 of the Environment Article and based on the best available scientific information
6 recognized by the Intergovernmental Panel on Climate Change; and

7 (iv) the consistency of the application with the State's climate
8 commitments for reducing statewide greenhouse gas emissions, including those specified
9 in Title 2, Subtitle 12 of the Environment Article.

10 (h) (3) A county or municipal corporation may not condition the approval of a
11 local permit required under a certificate of public convenience and necessity issued under
12 this section on receipt of any of the following approvals for any aspect of a generating
13 station, an overhead transmission line, [or] a qualified lead line, **OR AN ENERGY STORAGE**
14 **DEVICE** proposed to be constructed under the certificate:

15 (i) a conditional use approval;

16 (ii) a special exception approval; or

17 (iii) a floating zone approval.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
19 apply only prospectively and may not be applied or interpreted to have any effect on or
20 application to the construction of any energy storage device before the effective date of this
21 Act.

22 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 2025.