

HOUSE BILL 1406

C5, M3

5lr2265

By: **Delegates Behler, Fennell, Foley, and Turner**

Introduced and read first time: February 7, 2025

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Certificate of Public Convenience and Necessity – Environmental Impact**
3 **Analysis and Existing Burden Report**

4 FOR the purpose of requiring a person applying for a certificate of public convenience and
5 necessity to include with the application a certain environmental impact analysis
6 and, if applicable, a certain existing burden report; altering certain notice
7 requirements; prohibiting the Public Service Commission from approving an
8 application for a certificate of public convenience and necessity unless the application
9 includes a final environmental impact assessment and, if applicable, a final existing
10 burden report; requiring the Commission to determine whether a final
11 environmental impact analysis and any applicable final existing burden report
12 indicate certain impacts; authorizing the Commission to grant a certain conditional
13 certificate of public convenience and necessity under certain circumstances;
14 requiring a person granted a conditional certificate of public convenience and
15 necessity to enter into a certain cumulative impacts mitigation fund agreement with
16 certain persons; and generally relating to certificates of public convenience and
17 necessity.

18 BY repealing and reenacting, with amendments,
19 Article – Public Utilities
20 Section 7–207
21 Annotated Code of Maryland
22 (2020 Replacement Volume and 2024 Supplement)

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

25 **Article – Public Utilities**

26 7–207.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

(2) “AT-RISK CENSUS TRACT” MEANS A CENSUS TRACT FOR WHICH THE FINAL EJ SCORE AS DETERMINED BY THE MARYLAND EJ TOOL IS AT OR ABOVE THE 75TH PERCENTILE.

[(2)] (3) “Brownfields site” means:

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

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

(iii) mined land.

[(3)] (4) (i) “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.

(5) “EJ SCORE” HAS THE MEANING STATED IN § 1-101 OF THE ENVIRONMENT ARTICLE.

[(4)] (6) “Generating station” does not include:

(i) a generating unit or facility that:

1. is used for the production of electricity;

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

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

- 1 (ii) a combination of two or more generating units or facilities that:
- 2 1. are used for the production of electricity from a solar
3 photovoltaic system or an eligible customer–generator that is subject to the provisions of §
4 7–306 of this title;
- 5 2. are located on the same property or adjacent properties;
- 6 3. have the capacity to produce, when calculated
7 cumulatively for all generating units or facilities on the property or adjacent property, more
8 than 2 megawatts but not more than 14 megawatts of alternating current; and
- 9 4. for each individual generating unit or facility:
- 10 A. has the capacity to produce not more than 2 megawatts of
11 alternating current;
- 12 B. is separately metered by the electric company; and
- 13 C. does not export electricity for sale on the wholesale market
14 under an agreement with PJM Interconnection, LLC;
- 15 (iii) a generating unit or facility that:
- 16 1. is used for the production of electricity for the purpose of:
- 17 A. onsite emergency backup at a facility when service from
18 the electric company is interrupted due to electric distribution or transmission system
19 failure or when there is equipment failure at a site where critical infrastructure is located;
20 and
- 21 B. test and maintenance operations necessary to ensure
22 functionality of the generating unit or facility in the event of a service interruption from
23 the electric company due to electric distribution or transmission system failure or when
24 there is equipment failure at a site where critical infrastructure is located;
- 25 2. is installed with equipment that prevents the flow of
26 electricity to the electric grid;
- 27 3. is subject to a permit to construct issued by the
28 Department of the Environment; and
- 29 4. is installed at a facility that is part of critical
30 infrastructure if the facility complies with all applicable regulations regarding noise level
31 and testing hours; or

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

3 (7) “MARYLAND EJ TOOL” HAS THE MEANING STATED IN § 1-101 OF
4 THE ENVIRONMENT ARTICLE.

5 [(5)] (8) (i) “Mined land” means the surface or subsurface of an area
6 in which surface mining operations will be, are being, or have been conducted.

7 (ii) “Mined land” includes:

- 8 1. private ways and roads used for mining appurtenant to
9 any surface mining area;
- 10 2. land excavations;
- 11 3. workings; and
- 12 4. overburden.

13 [(6)] (9) “Qualified generator lead line” means an overhead transmission
14 line that is designed to carry a voltage in excess of 69,000 volts and would allow an
15 out-of-state Tier 1 or Tier 2 renewable source to interconnect with a portion of the electric
16 system in Maryland that is owned by an electric company.

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

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

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

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

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

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

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

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

25 1. is an electric company; or

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

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

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

35 2. the cost of the overhead transmission line is to be paid
36 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 (4) (i) Except as provided in subparagraph (ii) of this paragraph, for
9 construction related to an existing overhead transmission line designed to carry a voltage
10 in excess of 69,000 volts, the Commission shall waive the requirement to obtain a certificate
11 of public convenience and necessity if the Commission finds that the construction does not:

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

14 2. require larger or higher structures to accommodate:

15 A. increased voltage; or

16 B. larger conductors.

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

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

23 **(C) (1) A PERSON APPLYING FOR A CERTIFICATE OF PUBLIC**
24 **CONVENIENCE AND NECESSITY SHALL INCLUDE WITH THE APPLICATION:**

25 **(I) AN INITIAL ENVIRONMENTAL IMPACT ANALYSIS THAT**
26 **MEETS THE REQUIREMENTS OF PARAGRAPH (2) OF THIS SUBSECTION; AND**

27 **(II) IF APPLICABLE, AN INITIAL EXISTING BURDEN REPORT**
28 **THAT MEETS THE REQUIREMENTS OF PARAGRAPH (3) OF THIS SUBSECTION.**

29 **(2) AN INITIAL ENVIRONMENTAL IMPACT ANALYSIS SHALL INCLUDE:**

30 **(I) A DESCRIPTION OF THE PROPOSED PROJECT AND THE**
31 **ENVIRONMENTAL CONDITIONS OF THE PROPOSED PROJECT SITE;**

1 **(II) THE ENVIRONMENTAL AND PUBLIC HEALTH IMPACTS,**
2 **INCLUDING BOTH SHORT- AND LONG-TERM EFFECTS, OF THE PROPOSED**
3 **GENERATING STATION, OVERHEAD TRANSMISSION LINE, OR QUALIFIED**
4 **GENERATOR LEAD LINE;**

5 **(III) ANY IRREVERSIBLE OR IRRETRIEVABLE COMMITMENT OF**
6 **RESOURCES INVOLVED IN THE CONSTRUCTION; AND**

7 **(IV) MITIGATION MEASURES PROPOSED TO MINIMIZE**
8 **IDENTIFIED ENVIRONMENTAL IMPACTS.**

9 **(3) (I) A PERSON SHALL INCLUDE WITH AN APPLICATION FOR A**
10 **CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AN INITIAL EXISTING**
11 **BURDEN REPORT FOR EACH AT-RISK CENSUS TRACT AND AREA LOCATED WITHIN A**
12 **1.5-MILE RADIUS OF THE BOUNDARIES OF AN AT-RISK CENSUS TRACT THAT MAY BE**
13 **IMPACTED BY THE PROPOSED GENERATING STATION, OVERHEAD TRANSMISSION**
14 **LINE, OR QUALIFIED GENERATOR LEAD LINE.**

15 **(II) AN INITIAL EXISTING BURDEN REPORT SHALL INCLUDE:**

16 **1. THE EJ SCORE, CALCULATED BY THE MARYLAND EJ**
17 **TOOL, FOR THE CENSUS TRACT WHERE THE APPLICANT IS SEEKING TO CONSTRUCT**
18 **THE GENERATING STATION, OVERHEAD TRANSMISSION LINE, OR QUALIFIED**
19 **GENERATOR LEAD LINE;**

20 **2. A COMPREHENSIVE LIST OF EACH EXISTING**
21 **POLLUTION SOURCE OR CATEGORY OF SOURCES THAT ARE IMPACTING THE**
22 **COMMUNITY IN WHICH THE APPLICANT IS SEEKING TO CONSTRUCT THE**
23 **GENERATING STATION, OVERHEAD TRANSMISSION LINE, OR QUALIFIED**
24 **GENERATOR LEAD LINE, INCLUDING A DESCRIPTION OF POTENTIAL ROUTES OF**
25 **HUMAN EXPOSURE TO POLLUTION FROM EACH SOURCE OR CATEGORY IDENTIFIED;**

26 **3. AMBIENT CONCENTRATIONS OF REGULATED AIR**
27 **POLLUTANTS AND REGULATED OR UNREGULATED HAZARDOUS AIR POLLUTANTS;**

28 **4. TRAFFIC VOLUME;**

29 **5. GENERAL NOISE AND ODOR LEVELS;**

30 **6. EXPOSURE OR POTENTIAL EXPOSURE TO LEAD,**
31 **INCLUDING LEAD-BASED PAINT;**

1 **7. EXPOSURE OR POTENTIAL EXPOSURE TO**
2 **CONTAMINATED DRINKING WATER SUPPLIES;**

3 **8. PROXIMITY OF THE PROPOSED GENERATING**
4 **STATION, OVERHEAD TRANSMISSION LINE, OR QUALIFIED GENERATOR LEAD LINE**
5 **TO EXISTING SOURCES OF POLLUTION, INCLUDING:**

6 **A. SOLID OR HAZARDOUS WASTE SITES;**

7 **B. INCINERATORS;**

8 **C. RECYCLING FACILITIES;**

9 **D. WASTE TRANSFER FACILITIES; AND**

10 **E. PETROLEUM OR CHEMICAL MANUFACTURING,**
11 **STORAGE, TREATMENT, OR DISPOSAL FACILITIES;**

12 **9. THE POTENTIAL OR PROJECTED CONTRIBUTION OF**
13 **THE PROPOSED GENERATING STATION, OVERHEAD TRANSMISSION LINE, OR**
14 **QUALIFIED GENERATOR LEAD LINE TO EXISTING POLLUTION BURDENS IN THE**
15 **COMMUNITY IN WHICH THE APPLICANT IS SEEKING TO CONSTRUCT THE STATION OR**
16 **LINE AND, ACCOUNTING FOR THE EXISTING BURDEN, THE POTENTIAL HEALTH**
17 **EFFECTS OF THE CONTRIBUTION;**

18 **10. AN EVALUATION OF EXISTING ENVIRONMENTAL AND**
19 **PUBLIC HEALTH STRESSORS IN THE COMMUNITY IN WHICH THE APPLICANT IS**
20 **SEEKING TO CONSTRUCT THE GENERATING STATION, OVERHEAD TRANSMISSION**
21 **LINE, OR QUALIFIED GENERATOR LEAD LINE; AND**

22 **11. AN EVALUATION OF ANY UNAVOIDABLE**
23 **ENVIRONMENTAL AND PUBLIC HEALTH STRESSORS POSED BY THE PROPOSED**
24 **GENERATING STATION, OVERHEAD TRANSMISSION LINE, OR QUALIFIED**
25 **GENERATOR LEAD LINE.**

26 **(4) AFTER THE PUBLIC HEARING AND COMMENT PERIOD REQUIRED**
27 **UNDER SUBSECTION (E) OF THIS SECTION, AN APPLICANT SHALL:**

28 **(1) REVISE THE INITIAL ANALYSIS AND REPORT SUBMITTED**
29 **WITH AN APPLICATION UNDER PARAGRAPH (1) OF THIS SUBSECTION, TAKING INTO**
30 **ACCOUNT:**

1 **1. ANY FEEDBACK RECEIVED FROM PERSONS LISTED IN**
2 **SUBSECTION (D)(1)(I) THROUGH (VI) OF THIS SECTION; AND**

3 **2. ANY PUBLIC COMMENTS RECEIVED DURING THE**
4 **COMMENT PERIOD; AND**

5 **(II) SUBMIT TO THE COMMISSION A FINALIZED**
6 **ENVIRONMENTAL IMPACT ANALYSIS AND, IF APPLICABLE, A FINALIZED EXISTING**
7 **BURDEN REPORT.**

8 **(5) THE COMMISSION SHALL:**

9 **(I) SUBMIT THE FINALIZED ANALYSES AND REPORTS**
10 **SUBMITTED UNDER PARAGRAPH (4) OF THIS SUBSECTION TO THE PERSONS LISTED**
11 **IN SUBSECTION (D)(1)(I) THROUGH (VI) OF THIS SECTION; AND**

12 **(II) ATTACH TO THE FINALIZED ANALYSES AND REPORTS A**
13 **RECORD OF ALL PUBLIC COMMENTS RECEIVED REGARDING THE INITIAL**
14 **ENVIRONMENTAL IMPACT ANALYSIS AND, IF APPLICABLE, AN INITIAL EXISTING**
15 **BURDEN REPORT.**

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

19 (i) the Department of Planning;

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

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

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

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

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

1 (vii) all other interested persons.

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

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

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

9 (3) On receipt of an application for a certificate of public convenience and
10 necessity under this section, the Commission shall provide notice of the application on the
11 Commission's social media platforms and website.

12 **(4) THE NOTICE PROVIDED UNDER PARAGRAPH (1) OF THIS**
13 **SUBSECTION SHALL INCLUDE:**

14 **(I) THE FINAL EJ SCORE FOR EACH AT-RISK CENSUS TRACT**
15 **AND AREA LOCATED WITHIN A 1.5-MILE RADIUS OF THE BOUNDARIES OF AN AT-RISK**
16 **CENSUS TRACT WHERE THE PROPOSED GENERATING STATION, OVERHEAD**
17 **TRANSMISSION LINE, OR QUALIFIED GENERATOR LEAD LINE WILL BE LOCATED,**
18 **INCLUDING A DESCRIPTION OF THE INDICATORS CONTRIBUTING TO THE SCORE;**
19 **AND**

20 **(II) A LINK TO THE COMMISSION'S WEBSITE WHERE THE**
21 **ASSOCIATED INITIAL ENVIRONMENTAL IMPACT ANALYSIS AND INITIAL EXISTING**
22 **BURDEN REPORT MAY BE ACCESSED.**

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

28 (ii) The Commission may hold the public hearing virtually rather
29 than in person if the Commission provides a comparable opportunity for public comment
30 and participation in the hearing.

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

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

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

6 2. on two types of social media; and

7 3. on the Commission's website.

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

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

17 (ii) The informational sign required under subparagraph (i) of this
18 paragraph shall:

19 1. state the time, room number, and subject of the public
20 hearing; and

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

22 (iii) If the public hearing is conducted virtually rather than in person,
23 the Commission shall provide information on the hearing prominently on the Commission's
24 website.

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

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

30 **(F) (1) THE COMMISSION MAY NOT APPROVE AN APPLICATION FOR A**
31 **CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY UNLESS THE APPLICATION**
32 **INCLUDES:**

1 **(I) THE FINAL ENVIRONMENTAL IMPACT ANALYSIS REQUIRED**
2 **UNDER SUBSECTION (C)(4) OF THIS SECTION; AND**

3 **(II) IF APPLICABLE, THE FINAL EXISTING BURDEN REPORT**
4 **REQUIRED UNDER SUBSECTION (C)(4) OF THIS SECTION.**

5 **(2) THE COMMISSION SHALL DETERMINE WHETHER A FINAL**
6 **ENVIRONMENTAL IMPACT ANALYSIS AND ANY APPLICABLE FINAL EXISTING BURDEN**
7 **REPORT INDICATE THAT A PROPOSED GENERATING STATION, OVERHEAD**
8 **TRANSMISSION LINE, OR QUALIFIED GENERATOR LEAD LINE MAY, DIRECTLY OR**
9 **INDIRECTLY, CAUSE OR CONTRIBUTE TO AN INCREASED POTENTIAL FOR ADVERSE**
10 **ENVIRONMENTAL AND PUBLIC HEALTH IMPACTS WITHIN AN AT-RISK CENSUS TRACT**
11 **AND AREA LOCATED WITHIN A 1.5-MILE RADIUS OF THE BOUNDARIES OF THE**
12 **AT-RISK CENSUS TRACT.**

13 **(3) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, IF THE**
14 **COMMISSION DETERMINES THAT A PROPOSED GENERATING STATION, OVERHEAD**
15 **TRANSMISSION LINE, OR QUALIFIED GENERATOR LEAD LINE WOULD CAUSE OR**
16 **CONTRIBUTE TO AN INCREASED POTENTIAL FOR ADVERSE ENVIRONMENTAL AND**
17 **PUBLIC HEALTH IMPACTS WITHIN AN AT-RISK CENSUS TRACT OR AREA LOCATED**
18 **WITHIN A 1.5-MILE RADIUS OF THE BOUNDARIES OF THE AT-RISK CENSUS TRACT,**
19 **THE COMMISSION MAY NOT APPROVE AN APPLICATION FOR A CERTIFICATE OF**
20 **PUBLIC CONVENIENCE AND NECESSITY.**

21 **(4) THE COMMISSION MAY GRANT A CONDITIONAL CERTIFICATE OF**
22 **PUBLIC CONVENIENCE AND NECESSITY FOR A PROPOSED GENERATING STATION,**
23 **OVERHEAD TRANSMISSION LINE, OR QUALIFIED GENERATOR LEAD LINE THAT THE**
24 **COMMISSION, UNDER PARAGRAPH (2) OF THIS SUBSECTION, DETERMINES WOULD**
25 **CAUSE OR CONTRIBUTE TO AN INCREASED POTENTIAL FOR ADVERSE**
26 **ENVIRONMENTAL AND PUBLIC HEALTH IMPACTS IF THE APPLICANT CAN ESTABLISH**
27 **THAT:**

28 **(I) THE GENERATING STATION, OVERHEAD TRANSMISSION**
29 **LINE, OR QUALIFIED GENERATOR LEAD LINE WOULD SERVE AN ESSENTIAL**
30 **ENVIRONMENTAL, HEALTH, OR SAFETY NEED OF THE COMMUNITY WHERE THE**
31 **STATION OR LINE WILL BE LOCATED; AND**

32 **(II) THERE IS NO REASONABLE ALTERNATIVE TO**
33 **CONSTRUCTION OF THE GENERATING STATION, OVERHEAD TRANSMISSION LINE, OR**
34 **QUALIFIED GENERATOR LEAD LINE.**

1 **(5) IF THE COMMISSION GRANTS A CONDITIONAL CERTIFICATE OF**
2 **PUBLIC CONVENIENCE AND NECESSITY IN ACCORDANCE WITH PARAGRAPH (4) OF**
3 **THIS SUBSECTION, THE COMMISSION SHALL:**

4 **(I) IMPOSE ADDITIONAL PERMIT CONDITIONS TO PROTECT**
5 **PUBLIC HEALTH; AND**

6 **(II) REQUIRE THE APPLICANT TO ENTER INTO A CUMULATIVE**
7 **IMPACTS MITIGATION FUND AGREEMENT IN ACCORDANCE WITH PARAGRAPH (6) OF**
8 **THIS SUBSECTION.**

9 **(6) (I) AN APPLICANT WHO HAS BEEN GRANTED A CONDITIONAL**
10 **CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY SHALL ENTER INTO A**
11 **CUMULATIVE IMPACTS MITIGATION FUND AGREEMENT WITH A COMMUNITY-BASED**
12 **ORGANIZATION OR COLLECTION OF COMMUNITY-BASED ORGANIZATIONS**
13 **REPRESENTING THE COMMUNITY OR COMMUNITIES AFFECTED BY THE PROPOSED**
14 **GENERATING STATION, OVERHEAD TRANSMISSION LINE, OR QUALIFIED**
15 **GENERATOR LEAD LINE.**

16 **(II) A CUMULATIVE IMPACTS MITIGATION FUND AGREEMENT**
17 **SHALL ESTABLISH ONGOING MONETARY PAYMENTS THAT ARE:**

18 **1. AGREED ON BY THE COMMUNITY-BASED**
19 **ORGANIZATION AND THE APPLICANT; AND**

20 **2. DEPOSITED INTO A PROJECT-SPECIFIC CUMULATIVE**
21 **IMPACTS MITIGATION FUND FOR THE LIFE OF THE PROJECT.**

22 **(III) A CUMULATIVE IMPACTS MITIGATION FUND AGREEMENT:**

23 **1. SHALL BE ENFORCEABLE IN A STATE COURT AND**
24 **INCLUDE LANGUAGE IN THE AGREEMENT THAT THE AGREEMENT IS ENFORCEABLE**
25 **IN A STATE COURT;**

26 **2. SHALL BENEFIT ALL RESIDENTS WHO LIVE WITHIN**
27 **THE AT-RISK CENSUS TRACT AFFECTED BY THE PROPOSED GENERATING STATION,**
28 **OVERHEAD TRANSMISSION LINE, OR QUALIFIED GENERATOR LEAD LINE; AND**

29 **3. MAY NOT RESTRICT THE RIGHT OF RESIDENTS OR**
30 **ORGANIZATIONS TO EXPRESS CONCERNS ABOUT OR OBJECTIONS TO THE PROPOSED**
31 **GENERATING STATION, OVERHEAD TRANSMISSION LINE, OR QUALIFIED**
32 **GENERATOR LEAD LINE.**

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

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

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

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

9 (ii) economics;

10 (iii) esthetics;

11 (iv) historic sites;

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

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

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

17 (3) the effect of climate change on the generating station, overhead
18 transmission line, or qualified generator lead line based on the best available scientific
19 information recognized by the Intergovernmental Panel on Climate Change; and

20 (4) for a generating station:

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

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

26 (iii) the impact of the generating station on the quantity of annual
27 and long-term statewide greenhouse gas emissions, measured in the manner specified in §
28 2-1202 of the Environment Article and based on the best available scientific information
29 recognized by the Intergovernmental Panel on Climate Change; and

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

1 **[(f)] (H)** For the construction of an overhead transmission line, in addition to the
2 considerations listed in subsection **[(e)] (G)** of this section, the Commission shall:

3 (1) take final action on an application for a certificate of public convenience
4 and necessity only after due consideration of:

5 (i) the need to meet existing and future demand for electric service;
6 and

7 (ii) for construction related to a new overhead transmission line, the
8 alternative routes that the applicant considered, including the estimated capital and
9 operating costs of each alternative route and a statement of the reason why the alternative
10 route was rejected;

11 (2) require as an ongoing condition of the certificate of public convenience
12 and necessity that an applicant comply 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; and

19 (3) require the applicant to identify whether the overhead transmission
20 line is proposed to be constructed on:

21 (i) an existing brownfields site;

22 (ii) property that is subject to an existing easement; or

23 (iii) a site where a tower structure or components of a tower structure
24 used to support an overhead transmission line exist.

25 **[(g)] (I)** (1) The Commission may not authorize, and a person may not
26 undertake, the construction of an overhead transmission line that is aligned with and
27 within 1 mile of either end of a public airport runway, unless:

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

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

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

4 **[(h)] (J)** (1) A county or municipal corporation has the authority to approve
5 or deny any local permit required under a certificate of public convenience and necessity
6 issued under this section.

7 (2) A county or municipal corporation shall approve or deny any local
8 permits required under a certificate of public convenience and necessity issued under this
9 section:

10 (i) within a reasonable time; and

11 (ii) to the extent local laws are not preempted by State law, in
12 accordance with local laws.

13 (3) A county or municipal corporation may not condition the approval of a
14 local permit required under a certificate of public convenience and necessity issued under
15 this section on receipt of any of the following approvals for any aspect of a generating
16 station, an overhead transmission line, or a qualified lead line proposed to be constructed
17 under the certificate:

18 (i) a conditional use approval;

19 (ii) a special exception approval; or

20 (iii) a floating zone approval.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
22 1, 2025.