

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 640
Economic Matters

(Delegate Guyton, *et al.*)

Certificate of Public Convenience and Necessity – Overhead Transmission Lines
– Conservation Easements

This bill requires the Public Service Commission (PSC), before taking final action on an application for a Certificate of Public Convenience and Necessity (CPCN) for the construction of a new overhead transmission line, to provide due consideration of the impact of the proposed transmission line on properties that are located within each route the applicant considered and subject to an existing conservation easement. The bill further specifies that PSC must require a CPCN applicant to minimize the impact of an overhead transmission line on properties within the transmission line’s route that are subject to an existing conservation easement, or, alternatively, change the proposed route to minimize the impact on such properties.

Fiscal Summary

State Effect: PSC can handle the bill’s requirements with existing budgeted resources. The bill is not anticipated to otherwise materially affect State finances or operations.

Local Effect: The bill is not anticipated to materially affect local government finances or operations.

Small Business Effect: Minimal.

Analysis

Current Law:

Conservation Easements

As defined under the Real Property Article, “conservation easement” means an easement, covenant, restriction, or condition on real property, including an amendment to an

easement, covenant, restriction, or condition, that is (1) owned by the Maryland Environmental Trust, the Maryland Historical Trust, the Maryland Agricultural Land Preservation Foundation, the Department of Natural Resources (DNR), a county or municipality (with the easement funded by DNR, the Rural Legacy Program, or a local agricultural preservation program), or a land trust, or (2) required by a permit issued by the Maryland Department of the Environment.

Certificates of Public Convenience and Necessity for Overhead Transmission Lines

Under § 7-207 of the Public Utilities Article, unless a CPCN for the construction is first obtained from PSC, a person may not begin construction of an overhead transmission line that is designed to carry a voltage in excess of 69,000 volts or exercise a right of condemnation with the construction. However, a person that has received a CPCN from PSC for the construction of an overhead transmission line may acquire by condemnation, in accordance with Title 12 of the Real Property Article, any property or right necessary for the construction or maintenance of the transmission line.

PSC must take final action on a CPCN application only after due consideration of the recommendations of the governing body of each county or municipality in which any portion of the project is proposed to be located and the effect of the project on various aspects of the State infrastructure, economy, and environment.

For the construction of a new overhead transmission line specifically, PSC must also provide due consideration of (1) the need to meet existing and future demand for electric service and (2) the alternative routes that the applicant considered, including the estimated capital and operating costs of each alternative route and a statement of the reason why the alternative route was rejected. Additionally, PSC must require the applicant to (1) comply with specified agreements and obligations related to the ongoing operations and maintenance of the overhead transmission line and (2) identify whether the overhead transmission line is proposed to be constructed on an existing brownfields site, a property that is subject to an existing easement, or a site where a tower structure or components thereof exist and can be used to support an overhead transmission line.

For additional information on the CPCN process, see the **Appendix – Certificate of Public Convenience and Necessity**.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 34 (Senators Brooks and Hettleman) - Education, Energy, and the Environment.

Information Source(s): Baltimore City; Kent, Washington, and Worcester counties; Maryland Association of Counties; City of Laurel; Maryland Municipal League; Town of La Plata; Maryland Department of Agriculture; Maryland Department of the Environment; Department of Natural Resources; Office of People's Counsel; Public Service Commission; Department of Legislative Services

Fiscal Note History: First Reader - February 12, 2025
js/smr

Analysis by: Ralph W. Kettell

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

Appendix – Certificate of Public Convenience and Necessity

General Overview

The Public Service Commission (PSC) is the lead agency for licensing the siting, construction, and operation of power plants and related facilities in the State through Certificates of Public Convenience and Necessity (CPCN). The CPCN process is comprehensive and involves several other State agencies, including the Department of Natural Resources (and its Power Plant Research Program), and the Maryland Department of the Environment. Subject to limited exemptions described below, a person may not begin construction in the State of a generating station, overhead transmission line, or qualified generator lead line unless a CPCN is first obtained from PSC.

State law provides that a “generating station” excludes:

- a facility used for electricity production with a capacity of up to 2 megawatts that is installed with equipment that prevents the flow of electricity to the electric grid during time periods when the grid is out of service;
- a combination of two or more co-located or adjacent facilities used for electricity production from solar photovoltaic systems or specified eligible customer-generators that have a maximum cumulative capacity of 14 megawatts, including maximum individual capacities of 2 megawatts (subject to satisfying other requirements); and
- a facility, or a combination of two or more facilities, used for electricity production for the purpose of onsite emergency backup for critical infrastructure when service from the electric company is interrupted and conducting necessary test and maintenance operations (subject to satisfying other requirements).

The CPCN process, detailed further below, involves the notification of specified stakeholders, the holding of public hearings, the consideration of recommendations by State and local government entities, and the consideration of the project’s effects on various aspects of the State infrastructure, economy, and environment.

In December 2020, PSC initiated a rulemaking (RM 72) to revise regulations governing CPCNs for generating stations. Updated regulations became effective in September 2021. Among other changes, the regulations contain additional information requirements – to assist in project evaluation – and allow for electronic submission and distribution of application materials.

Notification Process

Upon receipt of a CPCN application, PSC – or the CPCN applicant, if required by PSC – must immediately provide notice to specified recipients, including the executive and governing body of affected local governments, affected members of the General Assembly, and other interested persons. When providing the notice, PSC must also forward the CPCN application to each appropriate unit of State and local government for review, evaluation, and comment and to each member of the General Assembly who requests a copy.

Public Hearing and Comment

PSC must provide an opportunity for public comment and hold a public hearing on a 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, both in a newspaper and online, and must further coordinate with each local government to identify additional hearing notification options. PSC must ensure presentation and recommendations from each interested State unit and must allow representatives of each State unit to sit during the hearing of all parties. PSC must then allow each State unit 15 days after the conclusion of the hearing to modify the unit's initial recommendations.

Public Service Commission Considerations

PSC must take final action on a CPCN application only after due consideration of (1) recommendations of the governing body of each county or municipality in which any portion of the project is proposed to be located; (2) various aspects of the State infrastructure, economy, and environment; and (3) the effect of climate change on the project. For example, PSC must consider the effect of the project on the stability and reliability of the electric system and, when applicable, air and water pollution. There are additional considerations specifically for a generating station or an overhead transmission line. For example, PSC must consider the impact of a generating station on the quantity of annual and long-term statewide greenhouse gas emissions and must consider alternative routes and related costs for the construction of a new overhead transmission line.

Generating Station Exemptions

There are three general conditions under which a person constructing a generating station may apply to PSC for an exemption from the CPCN requirement:

- the facility is designed to provide onsite generated electricity, the capacity is up to 70 megawatts, and the excess electricity can be sold only on the wholesale market pursuant to a specified agreement with the local electric company;
- at least 10% of the electricity generated is consumed onsite, the capacity is up to 25 megawatts, and the excess electricity is sold on the wholesale market pursuant to a specified agreement with the local electric company; or
- the facility is wind-powered and land-based, the capacity is up to 70 megawatts, and the facility is no closer than a PSC-determined distance from the Patuxent River Naval Air Station, among other requirements.

However, PSC must require a person who is exempted from the CPCN requirement to obtain approval from the commission before the person may construct a generating station as described above. The application must contain specified information that PSC requires, including proof of compliance with all applicable requirements of the independent system operator.